

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

EMILY TORJUSEN,

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION d/b/a AMTRAK,

Defendant.

)
) 3:18-cv-05785-BHS
)
) Tacoma,
) Washington
)
) April 1, 2022
)
) Jury Trial
)
) 9:00 a.m.

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE BENJAMIN H. SETTLE
UNITED STATES DISTRICT JUDGE

Proceedings stenographically reported and transcript
produced with computer-aided technology

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MORNING SESSION

APRIL 1, 2022

(The following occurred outside the presence of the jury.)

THE COURT: I understand there are some matters you wish to take up before we bring in the jury.

MR. PETRU: Yes, your Honor. I am responsible for this. The Court recalls that we have a stipulation, and I indicated yesterday that was going to be read after Ms. Torjusen's -- at the completion of her testimony.

In reviewing it, No. 9, which reads, "Amtrak has agreed to pay plaintiff's past medical expenses related to the derailment, so those expenses are not in dispute in this case," is inaccurate.

Amtrak has advised us that they are not going to pay Dr. Filler's charges for the work that he did in 2018, and they refuse to pay that. So from our perspective, they have failed to uphold their part of the bargain.

We propose eliminating No. 9 altogether, making no mention of medical one way or the other because they have not agreed to that.

MR. BONVENTRE: Amtrak has agreed to pay -- that's accurate. Amtrak has agreed to pay everything other than Dr. Filler, for the clear reason that Dr. Filler didn't provide medical treatment. He was retained by counsel for purposes of litigation. So Amtrak

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1 will not pay that.

2 I would be happy for counsel to modify the
3 stipulation that Amtrak has agreed to pay for all medical
4 expenses except Dr. Filler. That is perfectly fine with
5 Amtrak, and that would be accurate.

6 THE COURT: That is an accurate statement. I
7 don't know that it helps Amtrak, in which they are
8 excluding your expert here.

9 MR. PETRU: Your Honor, the other aspect of this
10 is that we made the tactical decision as trial counsel not
11 to introduce the past medical bills or expenses. And as a
12 consequence, those medical bills which have been paid by
13 insurance will not be paid by Amtrak. Whether they have
14 agreed to do it, had we introduced the medical expenses
15 is -- it renders their offer moot. So because medical
16 expenses aren't introduced, the reality is that the
17 medical expenses have been paid by insurance, not by
18 Amtrak, A. B, they refuse to pay Dr. Filler. So this is
19 an inaccurate statement. And I don't think it is
20 appropriate for us to give the jury inaccurate
21 information, which really, frankly, is not relevant.

22 THE COURT: Well, this is a little bit
23 disturbing, because at the pretrial conference this issue
24 came up, and I was assured that this was an issue that
25 would be resolved. So I believe that the answer is going

1 to have to be that no such stipulation will be entered
2 here, which means the argument can be stated to the jury
3 by Amtrak or by plaintiff that medical bills are not in
4 issue in this case.

5 MR. PETRU: Thank you, your Honor.

6 MR. BONVENTRE: Thank you, your Honor.

7 THE COURT: Is there anything else?

8 MR. PETRU: I'm sorry. No, your Honor.

9 THE COURT: Is your client --

10 MR. PETRU: Let me get her.

11 (The following occurred in the presence of the jury.)

12 THE COURT: Good morning, jurors. We are ready
13 to begin our trial day.

14 Ms. Torjusen, if you would resume your seat at the
15 witness chair.

16 Mr. Bonventre, I believe this is your witness.

17 MR. BONVENTRE: Thank you, sir.

18 CROSS-EXAMINATION

19 BY MR. BONVENTRE:

20 Q. Good morning, Ms. Torjusen.

21 A. Good morning.

22 Q. Ms. Torjusen, I am going to ask you some questions
23 this morning. How would you like me to address you?

24 Ms. Torjusen? Emily? What makes you most comfortable?

25 A. Emily is fine.

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1 Q. Emily, I am going to ask you some questions this
2 morning. You may have already been told, I tend to speak
3 quickly. And if I am speaking too quickly or you think I
4 am mumbling or you can't follow my questions, please tell
5 me. Okay?

6 A. Okay.

7 Q. Thank you.

8 Emily, are you currently residing in Cairo, Egypt?

9 A. Yes.

10 Q. And when did you move back to Cairo?

11 A. I arrived there at the end of June, in June.

12 Q. Of 2021?

13 A. Yes.

14 Q. And when had you left Cairo to come back to the
15 United States, the first time? I'm sorry. I apologize.

16 A. I first left Cairo to come back to the United States
17 in September of 2019.

18 Q. And at that point, you resumed your studies at
19 University of Washington, correct?

20 A. Correct.

21 Q. And my understanding is you began your studies at
22 University of Washington in 2016; is that correct?

23 A. Correct.

24 Q. And specifically, your first semester would have been
25 in autumn of 2016?

1 A. Yes.

2 Q. Just for my and the jury's edification, UW, is that
3 quarters?

4 A. Yes.

5 Q. Semesters or trimesters?

6 A. It is a quarter system.

7 Q. So in a typical school year, would you have four
8 quarters or three?

9 A. I mean, typically you do autumn, winter and spring,
10 and you can take summer quarter as well.

11 Q. Got you. And there were occasions when you actually
12 took courses during the summer, correct?

13 A. Yes.

14 Q. A7 just for the witness.

15 Emily, can you see what's in front of you on the
16 screen?

17 A. Yes.

18 Q. And just take a look at what has been marked as
19 Defense Exhibit A7 -- A7-A. Emily, is that your
20 transcript at the University of Washington?

21 A. Yes.

22 MR. BONVENTRE: Judge, I would move that into
23 evidence at this time.

24 MR. PETRU: No objection.

25 THE COURT: A7 is admitted. It may be published.

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(Exhibit No. A7 admitted.)

BY MR. BONVENTRE:

Q. So Emily, I just want to ask you some questions about your course work at the University of Washington and your grades and things like that, okay?

A. Okay.

Q. The first -- would it be correct that the first quarter of courses that you took following the accident on the train would have been the winter of 2018?

A. Correct.

Q. And could you tell the jury what courses you took at UW in the winter of 2018?

A. I took Elementary Arabic, a class called Near Eastern Gateway, Intermediate Studies of the Near East, and Modern Political Thought.

Q. That was 18 credits?

A. Yes.

Q. And you completed all 18, correct?

A. Yes.

Q. Elementary Arabic, is that a language course?

A. Yes.

Q. What's Near Eastern Gateway? What was the subject matter of that course, Emily?

A. It was a required introductory overview of some of the general histories of the Middle East.

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1 Q. And you said Modern Political Thought?

2 A. Yes.

3 Q. Was that the Middle East or Western thought, or what
4 was that, do you recall?

5 A. It was mostly political theory, like the basis of
6 American democracy.

7 Q. Your taking Arabic arose, my understanding is, at
8 some point -- I forget the expression you used
9 yesterday -- I don't know if you fell in love with it,
10 became entranced with Arabic and Middle Eastern history;
11 is that fair to say, at some point?

12 A. I became interested in it, yes.

13 Q. And -- that's become a passion, I believe is the word
14 you used yesterday; is that correct?

15 A. Yes.

16 Q. And your studies were, therefore, for the remainder
17 of your time at University of Washington were geared
18 towards those types -- what your passion was; would that
19 be fair to say?

20 A. Yes, it was my interest at the time.

21 Q. And that's -- the Middle East and Arabic language and
22 things like that, that's one of the reasons why you went
23 to Cairo back in 2019, correct?

24 A. Yes. My goal was to learn Arabic, yes.

25 Q. And your passion for Middle Eastern history and

1 civilization and language is one of the reasons why you
2 are in Cairo now, correct?

3 A. No.

4 Q. You chose Cairo not because you are interested in
5 Middle Eastern?

6 A. I went there to study Arabic and also because that
7 was the best place for me at the time.

8 Q. That first semester after the -- after the train
9 accident, your GPA was 3.53, correct?

10 A. Let me look. My cumulative GPA?

11 Q. No, your GPA for that quarter.

12 A. Let me look at it.

13 Q. Do you see where it says, "attempted 18, earned 18,
14 GPA"?

15 A. Yes, I see it, 3.53, yes.

16 Q. And that earned you the dean's list, correct?

17 A. Yes.

18 Q. Extraordinarily, the first quarter after this
19 accident, this horrific accident you went through, you
20 actually made the dean's list, correct?

21 MR. PETRU: Move to strike the first word of the
22 question.

23 THE COURT: Granted.

24 BY MR. BONVENTRE:

25 Q. You made the dean's list the first quarter after the

1 accident, correct?

2 A. Correct.

3 Q. And then you studied in the spring of 2018; is that
4 correct?

5 A. Yes.

6 Q. And what courses did you take in the spring of 2018?

7 A. I took Elementary Arabic, an international studies
8 class that was called Cultural Interactions, and then
9 something called Intermediate Studies, which was part of
10 the Near Eastern faculty, and a polysci class related to
11 the simulation of the U.S. Congress.

12 Q. And that semester, you earned a 3.69; is that
13 correct?

14 A. Correct.

15 Q. And again made the dean's list, correct?

16 A. Yes.

17 Q. And then in the autumn of 2018, do you see that, on
18 the next page? I'm sorry. Do you have that, Emily, on
19 the next page?

20 A. Yes.

21 Q. And in the autumn of 2018, your GPA was 3.93,
22 correct?

23 A. Yes. Correct.

24 Q. And, again, dean's list, correct?

25 A. Yeah.

1 Q. Just so the jury understands, it's 3.93 out of 4 is
2 the highest you could possibly get, correct?

3 A. Correct.

4 Q. And the winter of 2019, you earned a GPA of 3.88,
5 correct?

6 A. Correct.

7 Q. And on the dean's list again, correct?

8 A. Correct. All of this was while I was studying
9 abroad.

10 Q. And you earned a 3.88 while you were studying abroad,
11 correct?

12 A. For which quarter? Oh, for the winter 2019, correct.

13 Q. '19. I'm sorry. Correct.

14 A. Correct.

15 Q. And then in the spring of 2019, you earned a 3.75,
16 correct?

17 A. Correct.

18 Q. And that was with a GPA of 3 point -- excuse me, that
19 was also the dean's list, correct?

20 A. Correct.

21 Q. And you did not take any courses in the summer of
22 2019, correct?

23 A. I can't see on the screen.

24 Q. I'm sorry. You did not --

25 A. No, I did not take a summer quarter, no.

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1 Q. And that's because -- at that time, and we will
2 discuss that later, you were living in Cairo, Egypt,
3 correct?

4 A. Correct.

5 Q. And you were not earning credits for school during
6 that time, correct?

7 A. No, I was not.

8 Q. And in the winter of 2020, you were back in the
9 United States; is that correct?

10 A. Correct.

11 Q. Actually, I apologize. Before that, the autumn of
12 2019, you were back in the United States at UW?

13 A. Yes, correct.

14 Q. And your -- what courses did you take that semester
15 or that quarter?

16 A. I took something called Advanced Readings. It was an
17 international studies class, something related to the
18 political economics of developing countries, I think,
19 which was another international studies class, a senior
20 seminar for the Near Eastern faculty, and an Introduction
21 to Political Economy.

22 Q. I apologize. The seminar was a senior seminar on
23 what, Emily?

24 A. For the Near Eastern languages and civilizations, the
25 NEL faculty at the University of Washington, this was

1 their senior seminar.

2 Q. And that semester -- autumn of 2019, you earned a
3 3.9, correct?

4 A. Correct.

5 Q. And once again made the dean's list, correct?

6 A. Correct.

7 Q. And in the winter of 2020, you again earned a 3.9,
8 correct?

9 A. Yes. While I was doing my internship at the
10 Washington State Capitol, I received credit for the
11 internship, which I received a 3.9 GPA for.

12 Q. And what was that internship? You were at the State
13 Capitol of Washington, correct?

14 A. Correct.

15 Q. And were you working with legislators in the Capitol?

16 A. I was an intern for legislators.

17 Q. I'm sorry?

18 A. Yes, I was an intern for legislators.

19 Q. The next was the spring of 2020. What courses did
20 you take in the spring of 2020?

21 A. I took something called the Making of the 21st
22 Century, which was an international studies class, and an
23 international studies class called Special Topics of the
24 Middle East, another international studies class called
25 Industry and the States, and a polysci class called Global

1 Crime and Corruption.

2 Q. And you achieved a 3.62 GPA, correct?

3 A. Correct.

4 Q. And, again, made the dean's list, correct?

5 A. Correct.

6 Q. And in the summer of 2020, you achieved a GPA of 3.7,
7 correct?

8 A. Correct.

9 Q. And, again, made the dean's list?

10 A. Yes, for an intensive intermediate Arabic class.

11 Q. What was the class you were taking? I'm sorry?

12 A. It was an intermediate Arabic class.

13 Q. Does it say -- what does it mean that it is an
14 intensive intermediate Arabic class?

15 A. It means that it was the summer quarter. They offer
16 a class to help people catch up if they have -- they are
17 trying to complete a level of Arabic that they haven't
18 completed yet.

19 Q. And you earned a 3.7, correct?

20 A. Correct.

21 Q. And again made the dean's list?

22 A. Correct.

23 Q. Is it accurate that you made the dean's list the rest
24 of the time you were at the University of Washington?

25 A. I can't see.

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1 Q. Do you recall? I don't have the most recent
2 transcript. Do you recall?

3 A. I actually do not recall, but possibly.

4 Q. What was your major?

5 A. My final major which I graduated with?

6 Q. Yes. Do I understand you had three majors?

7 A. I did.

8 Q. That's pretty unusual having three majors, would you
9 agree?

10 MR. PETRU: Objection. Foundation.

11 THE COURT: Sustained.

12 BY MR. BONVENTRE:

13 Q. There were lots of students at the University of
14 Washington, correct?

15 A. Yes. It's a big school.

16 Q. Not everyone at the University of Washington
17 graduates with three degrees, correct?

18 A. I had three majors, yes.

19 Q. Three majors. I'm sorry. I apologize. Three
20 majors, correct?

21 A. Correct, I don't think everyone does that.

22 Q. In fact, it is pretty rare; is that fair to say?

23 MR. PETRU: Objection. Foundation.

24 THE COURT: Sustained.

25

1 BY MR. BONVENTRE:

2 Q. What were the three majors you graduated with?

3 A. It was political science, international studies, and
4 Near Eastern languages/civilizations.

5 Q. And what is the study of Near Eastern languages and
6 civilizations?

7 A. It's the study of the Middle East. If you want to
8 learn a Middle Eastern language, this would be a good
9 major for someone pursuing that.

10 Q. What are the types of things that you studied?

11 A. Arabic and some required classes related to the
12 history of the region.

13 Q. All right. Thank you.

14 Now, Emily, I just want to talk a little about your
15 travels, beginning with your summer semester. Do I
16 understand that in the -- is it the summer of 2018, that
17 you went to France?

18 A. In August of 2018, yes.

19 Q. And was that to do with the term abroad?

20 A. Yes. The year began very early on, earlier than UW,
21 so I went there in August to arrive on time.

22 Q. Maybe I misunderstood. I apologize. Did you go
23 early to see the area or actually the course work was
24 starting early?

25 A. Yes, the course work started early.

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1 Q. Got you. Did you go with anyone?

2 A. No.

3 Q. And where was -- where was the school or the courses
4 you were taking in France?

5 A. It was in a small town called Monton.

6 Q. Is it fair to say that is in the south of France?

7 A. Yes.

8 Q. And is it fair to say that's a pretty gorgeous place?

9 A. Yes, it is very pretty there.

10 Q. You have actually written an article about Cairo in
11 which you mention how gorgeous that part of the world is;
12 is that fair to say?

13 A. Yes, it is known for its beauty.

14 Q. And it is apparently very close to the border -- the
15 northern border of Italy; is that correct?

16 A. Yes.

17 Q. And it is, I guess, fairly close to Monte Carlo,
18 because I understand you actually walked to Monte Carlo;
19 is that correct?

20 A. Yes, it is adjacent to Monaco.

21 Q. So while you were in France, were you working at a
22 particular institution or organization or studying at a
23 particular institution or organization?

24 A. I was enrolled at the university there as an exchange
25 student.

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1 Q. Is there something called the Po Institute, P-O
2 Institute?

3 A. It is called Sciences Po. That's the name of the
4 university.

5 Q. What is it called?

6 A. Sciences Po. That's the name of the university.

7 Q. Do you speak French, by the way?

8 A. I do not.

9 Q. And does the university have a particular, for lack
10 of a better -- specialty or focus?

11 A. Political science.

12 Q. And is it political science just in general, is it
13 specified for any particular region?

14 A. They have various campuses. The one at which I was
15 at was focused on the Middle East.

16 Q. So, again, following up on what your studies and
17 passions were at the time, is that why you chose --

18 A. In order to complete my majors, I needed to go to a
19 university which offered the classes which would meet the
20 required classes for my majors, yes.

21 Q. While -- there was some discussion of this yesterday,
22 so I just want to follow up. Do I understand that -- was
23 it an expensive town? Is that fair to say?

24 A. France, I guess -- it has been a while, but, yeah, I
25 found it expensive there, yeah.

1 Q. And, actually, you would walk sometimes to go to
2 Italy to buy your groceries, correct?

3 A. Yeah. I was eating rice mainly, so I was trying to
4 be frugal.

5 Q. My point was, you would -- part of your routine would
6 be to buy your groceries in Italy, correct?

7 A. Yes.

8 Q. And sometimes you would walk; is that correct?

9 A. Yeah.

10 Q. And sometimes you would take the train; isn't that
11 correct?

12 A. Yeah.

13 Q. And how often would you buy groceries in Italy? How
14 often, once a week, more or less?

15 A. No. Maybe once or twice a month.

16 Q. While you were in -- did I hear right, there would be
17 times when you would actually walk to Monte Carlo to get
18 coffee; is that correct?

19 A. There is a very nice walk connecting the town of
20 Monton to Monte Carlo. It is about a two-hour walk. I
21 would go there. Monte Carlo had the only Starbucks in the
22 area, so it was a nice space to study.

23 Q. And you did that walk pretty frequently?

24 A. No.

25 Q. Did you do it more than once?

1 A. I think in total I did it two times, maybe three.

2 Q. And it would be a walk along the beach, is that my
3 understanding? Or at least partially along the beach?

4 A. Yeah, part of it was along the beach.

5 Q. Did you ever take the train to go to Monte Carlo or
6 Monaco?

7 A. I believe I went there once for that purpose, but the
8 train would pass through Monaco to go to Nice or any other
9 destination in France.

10 Q. Did you go to those other destinations?

11 A. I had to go to Nice to get to the airport, so, yes.

12 Q. Did you ever go to Nice other than going to the
13 airport?

14 A. I think once I went there to walk around and see it.

15 Q. Did you travel anywhere else in France while you were
16 doing your summer semester?

17 A. While I was doing my exchange year there, I once went
18 to Paris for a few days to see it.

19 Q. How did you get to Paris?

20 A. I actually took a bus.

21 Q. Did you take a bus or a train?

22 A. Bus.

23 Q. Did you go to Paris once or more than once?

24 A. Yeah, it was just once.

25 Q. And did you travel anywhere else in France, other

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1 than Nice and Paris?

2 A. I went to a place called -- I am going to butcher it.
3 It's like Marce. I went there to get my visa to go to
4 Egypt. And I visited a town called Leon. And I think
5 another town farther out to see some mountains. And I
6 think that was about it.

7 Q. While you were in France, my understanding is you
8 went hiking on many occasions; is that correct?

9 A. Monton was a pretty small town, but it had some nice
10 hikes in the area, so I went hiking.

11 Q. And fairly often, correct?

12 A. Yeah, probably once a month.

13 Q. You had your deposition taken, do you remember,
14 Emily, in this case?

15 A. My deposition? I remember I gave a deposition.

16 Q. Did you have a chance to look at it before you came
17 in yesterday to court?

18 A. Yes, I reviewed it before.

19 Q. And do you recall testifying that you took about
20 twelve hikes while you were in France? Does that sound
21 about right?

22 A. Probably, yeah.

23 Q. And were these hikes in different parts of France or
24 the same town?

25 A. Mainly just around Monton, yeah.

1 Q. And how would you get to that town?

2 A. How would I get to Monton?

3 Q. Is that the town you were living in?

4 A. That's where I was living, yeah.

5 Q. I'm sorry. I apologize. So I understand from
6 yesterday's testimony you also traveled to London; is that
7 correct?

8 A. Yes.

9 Q. How did you get to London, by train or by plane?

10 A. By plane.

11 Q. And how long did you stay in London?

12 A. When I was there with Hanna, I think we were there
13 maybe a week, maybe a week and a half.

14 Q. Do I take it by that answer there were other times
15 you were in London?

16 A. I came there once for basically a two-day trip. It
17 was a very short period of time, two, three days. That
18 was about it.

19 Q. Were you with someone or by yourself?

20 A. I was by myself.

21 Q. And how did you get there?

22 A. I took a plane.

23 Q. And was that pleasure or something related to school?

24 A. No, I just wanted to kind of see London.

25 Q. And the first trip to London -- the trip to see Hanna

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1 was obviously pleasure, too, to see a friend, correct?

2 A. Yes. Correct.

3 Q. Did you have the opportunity while you were doing
4 your term abroad to visit any other countries?

5 A. Yes.

6 Q. Where else did you visit?

7 A. I did take a fall trip with two people I had met at
8 the university. We went to kind of the Balkan countries,
9 because the U.S. dollar was strong there. So I think I
10 visited -- I visited Sarajevo, which is in Bosnia. And
11 then I visited -- we kind of went through Croatia and into
12 Slovenia.

13 Q. How did you get to those countries, and how did you
14 get from one of those countries to the next?

15 A. Well, first we flew into Bosnia, and then we took
16 buses and occasionally trains to get from one place to
17 another.

18 Q. And for how long did you -- I just went blank. I
19 apologize. For how long were you visiting the Balkan
20 countries?

21 A. It was about one week, I think.

22 Q. Okay. And you said this was in the fall of 2018?

23 A. Correct.

24 Q. Anywhere else that you visited while you were doing
25 your term in France?

1 A. I was lucky enough to receive kind of a scholarship
2 to do some research, just like a small project in Turkey.
3 You had to apply for it. And they help subsidize your
4 plane ticket. So I was in Istanbul for about one week.

5 Q. You said you flew to Istanbul?

6 A. Correct.

7 Q. Did you enjoy Istanbul?

8 A. I was there for research.

9 Q. Were you able to see any of the city while you were
10 there for a week?

11 A. I was kind of conducting interviews with people, so I
12 saw where they were living. That was nice.

13 Q. Anywhere else that you visited while you were in
14 France?

15 A. To the best of my knowledge, no.

16 Q. Did you go to any other parts of Italy, for example?

17 A. I took my flight to Cairo from the Milan airport,
18 because it was cheaper, so I passed through there.

19 Q. Did you spend any time in Milan?

20 A. No.

21 Q. Did you visit Germany or any other European countries
22 while you were over there?

23 A. That is correct, I did go to Germany at the end of my
24 time. It was in May.

25 Q. Where in Germany did you go?

1 A. I went to what is this -- I think I flew into
2 Wachendorf, and then I visited someone I knew who had been
3 a nanny in Seattle in a small town in Germany,
4 Monchengladbach.

5 Q. You spent a week there, you said, or two weeks? How
6 long did you spend there?

7 A. I think in total it was about a week.

8 Q. Were you able to go to Spain, Portugal?

9 A. No.

10 Q. How about Switzerland or anything like that?

11 A. No.

12 Q. So at some point after you completed your studies and
13 your traveling while you were in France, you next went to
14 Cairo; is that correct?

15 A. Yes, in I think the end of may. I went to Cairo at
16 the end of my academic year.

17 Q. Just so the jury knows, what amount of time did you
18 actually spend in that town, which I cannot pronounce, I
19 apologize, in France? How much time did you spend there?

20 A. So I was there from September to May, so September,
21 October, November, December, January, February, March,
22 April, May. So about nine months.

23 Q. About nine months. Okay. Do I understand it when
24 you went -- had you been to Cairo -- I apologize, Barry.
25 I will withdraw that.

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1 Had you been to Cairo before this trip to Cairo in
2 2019?

3 A. Before I left in May, I had gone there -- basically,
4 kind of a school trip to do a group class study at a
5 language institute in Cairo. It was organized through the
6 university, and there was a discount on group classes at
7 that school. So I went with several other students from
8 that university to study at the language institute for
9 about -- in total about three weeks, I believe, on our
10 winter break.

11 Q. I am a little slow on the uptake. Just so I
12 understand, you visited Cairo for three weeks while you
13 were doing your semester -- your term abroad in France; is
14 that correct?

15 A. While I was on my exchange year in France, I took my
16 winter break -- instead of taking a vacation, I went and
17 enrolled in classes at the language institute in Cairo.

18 Q. You went with a couple of other students, you said?

19 A. It was a group discount. So if there were enough
20 students willing to go, we were able to enroll in a class
21 together.

22 Q. So when you went to Cairo in 2019, you had at least
23 been there once before for those three weeks, correct?

24 A. Correct.

25 Q. And do I understand when you were in Cairo, you were

1 living with a family?

2 A. Which time? The summer?

3 Q. I apologize. You are absolutely right. In 2019, I'm
4 sorry.

5 A. Yes. In the summer of 2019, I was -- in exchange for
6 room and board, I was an at-home tutor for an Egyptian
7 family. I tutored their children in English.

8 Q. I may have asked this. If I did, I apologize. What
9 was the time frame you were in Cairo in 2019?

10 A. I believe I arrived at the very end of May, and I
11 left at the very end of September.

12 Q. So about four months?

13 A. Yeah.

14 Q. And this was not for school credits, this was -- you
15 wanted to go to Cairo, correct?

16 A. I went there to learn Arabic.

17 Q. You were living -- did you know this family that you
18 lived with before you lived with them?

19 A. Not really.

20 Q. And they had -- do I understand they had two teenage
21 kids that you were teaching, or am I wrong about that?

22 A. They had a very sweet 13-year-old daughter, a
23 16-year-old son who was studying for the SATs, they had
24 two sons enrolled in college.

25 Q. I apologize. Were they Americans living in Cairo or

1 were they Egyptians?

2 A. They were Egyptians.

3 Q. And my understanding from one of your articles that
4 you have written, upon arrival in Cairo you founded -- I
5 believe the word you called it, unmatched exhilaration; is
6 that correct?

7 A. I have never really seen a desert before. So when I
8 saw it, I thought I was -- it was pretty spectacular.

9 Q. And you actually -- just so the jury understands, you
10 actually wrote an article about your time in Cairo, and
11 would it be fair to say, your love of Cairo?

12 A. My friend, she does a magazine called UW Voyage for
13 the University of Washington, and they were doing a piece
14 on people who had done exchanges abroad. She asked me to
15 write about my experience, with a focus on sustainability.

16 So I wrote this article for them. I also submitted
17 it to this kind of online organization, which I'm sure is
18 how you found it.

19 Q. And when you submitted -- and the article was about
20 Cairo, correct?

21 A. Correct.

22 Q. And when you say "sustainability," what does that
23 mean?

24 A. To be honest, Cairo is kind of a trash heap.

25 Q. There is a lot of garbage, I guess, is that the right

1 word?

2 A. They have a problem with littering, with garbage,
3 with disposing of trash.

4 Q. Was one of your articles about the need to -- plans
5 to clean up the city?

6 A. No.

7 Q. What was the article about?

8 MR. PETRU: Objection. Relevance, your Honor.

9 THE COURT: Overruled.

10 THE WITNESS: I wrote mainly about -- it is
11 sad -- okay. There is a group of people living in Cairo
12 who collect the trash. They find trash in the streets.
13 They live in a trash heap, and they grind down the
14 different types of trash, and they compact it, and they
15 sell it to make a living. This is their waste disposal
16 system.

17 BY MR. BONVENTRE:

18 Q. You were commenting upon that in the article,
19 correct?

20 A. Correct.

21 Q. But I believe the conclusion of the article was
22 something to the effect of, don't just judge Cairo by
23 that, it is actually wonderful in many other ways,
24 correct?

25 A. Correct.

1 Q. While you were in Cairo, my understanding is you did
2 take the train in the city; is that correct?

3 A. Occasionally, yes.

4 Q. And I believe you described it in your deposition as
5 an old metro system, correct?

6 A. It is very old.

7 Q. Were you able -- did you have the opportunity to
8 travel within Egypt during that period in 2019 that you
9 were in Cairo?

10 A. No.

11 Q. When did you come back to the United States?

12 A. In September of 2019.

13 Q. And that's when you resumed your studies at the
14 University of Washington, correct?

15 A. Correct.

16 Q. You went back to Cairo where you are currently living
17 in 2021, correct, last year?

18 A. Correct.

19 Q. When did you -- do you have a more specific date in
20 2021?

21 A. In June of 2021.

22 Q. And you are still residing there now, correct?

23 A. Correct.

24 Q. Prior to going to Cairo, did you visit another
25 country?

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1 A. Correct.

2 Q. And was that Romania?

3 A. Correct.

4 Q. And because I'm horrible with geography, where is
5 Romania compared to Egypt?

6 A. Me too. I don't know. I know it's in Europe.

7 Q. Is Romania in Eastern Europe?

8 A. Yeah.

9 Q. I take it you obviously flew from Seattle to Romania?

10 A. Correct.

11 Q. How long did you stay in Romania? For about a month,
12 correct?

13 A. A few weeks, yes.

14 Q. The trip to Romania was for pleasure? You wanted to
15 see Romania, correct?

16 A. Correct.

17 Q. By the way, were you alone or were you traveling with
18 anyone?

19 A. I was traveling -- there was someone I knew from
20 Sciences Po. And we had stayed in touch throughout COVID.
21 So I asked if it would be possible to see Romania, and
22 they said, sure.

23 Q. And did you travel around Romania?

24 A. We visited a few different areas, kind of the tourist
25 sites, Dracula's castle.

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1 Q. What areas did you visit?

2 A. We visited an area that is very foresty. It has the
3 Dracula castle, and then another area along the coastline.

4 Q. Was it a good time?

5 A. It was nice.

6 Q. And then from Romania you went back to Cairo,
7 correct?

8 A. I hadn't -- yes. The purpose was to go to Cairo.
9 The first stop was Romania, and then went to Cairo.

10 Q. And other than for this trial, have you been back to
11 the United States since you went to Cairo in 2021?

12 A. No.

13 Q. Have you -- have you taken the old metro in Cairo
14 since you returned in 2021?

15 A. Initially, I was living in an area that was kind of
16 in the middle of the city. So in order to go to work, I
17 had to take the metro.

18 Q. Have you had the opportunity to travel within Egypt
19 since you have been to Cairo in 2021?

20 A. No.

21 Q. Have you traveled anywhere else while you have been
22 in Cairo, Egypt?

23 A. No.

24 Q. Thank you. Just briefly on the issue of -- I know
25 you told us about when you would take a train in Europe

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1 and Egypt and everything. When you have been back in the
2 United States, particularly when you were back in Seattle
3 at school, you were taking buses and the Link, correct?

4 A. I took buses. I avoided the Link at all costs.

5 Q. You did take it from time to time; is that fair to
6 say?

7 A. Probably total two times, three times.

8 Q. Emily, can you see what is marked A41?

9 A. Yes.

10 Q. Is that your LinkedIn?

11 A. Yes.

12 Q. Could you tell the members of the jury what LinkedIn
13 is? I know what it is, but not very well. Others may
14 not. What is LinkedIn?

15 A. It is a professional platform for finding a job.

16 Q. And you fill it out, or whatever the right word is,
17 you populate it with information; is that correct?

18 A. It is basically your CV.

19 Q. You are the one who puts the information in?

20 A. Correct.

21 Q. So is this your LinkedIn -- is that called a page?
22 LinkedIn page? Is that what it would be called?

23 A. Yes.

24 MR. BONVENTRE: I offer into evidence A41, your
25 Honor.

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1 MR. PETRU: No objection.

2 THE COURT: A41 is admitted and may be published.

3 (Exhibit No. A41 admitted.)

4 BY MR. BONVENTRE:

5 Q. So, Emily, I just want to go over your CV as you
6 called it and some of your experiences, okay?

7 A. Okay.

8 Q. You don't need a break or anything, do you?

9 A. I'm fine.

10 Q. You're fine.

11 MR. PETRU: Is that a question?

12 MR. BONVENTRE: I apologize, Judge. I'm sorry.

13 BY MR. BONVENTRE:

14 Q. The first thing is your experience, and it says that
15 you are partly working full time at Geek Lab Holdings or
16 Labs Holdings; is that correct?

17 A. Correct.

18 Q. That's your current provider in Cairo, correct?

19 A. Correct.

20 Q. And you are the chief executive officer, correct?

21 A. Correct.

22 Q. And that was from September -- you became the CEO in
23 September of last year, correct?

24 A. Correct.

25 Q. And you said you have about four people reporting to

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1 you?

2 A. Yeah.

3 Q. Was there a time when it was six?

4 A. We have a lot of turnover, yeah.

5 Q. And prior to that, you were a content writer,
6 correct?

7 A. Correct.

8 Q. Meaning you would write articles?

9 A. I would create content, correct.

10 Q. And are you familiar with something called the Night
11 Beyond?

12 A. This was one of their brands, platforms.

13 Q. You actually wrote some, as you say, content for the
14 Night Beyond, correct?

15 A. Correct.

16 Q. Let me ask you this: Would it be fair to say many of
17 the articles that you wrote were about serious substantive
18 conversations -- topics. The material in the Night Beyond
19 was a little less -- a little more cultural, would that be
20 fair to say, sort of American culture?

21 A. I wrote what I was told to write.

22 Q. Was one of the things you were told to write was an
23 article about ten movie sequels that ruined the original?

24 A. I believe that was one of the requested topics.

25 Q. And in July of 2021 -- actually, let me step back for

1 a second. I apologize. The article that you wrote about
2 Cairo, did that article -- and was published -- did that
3 article include photographs you had taken in Cairo?

4 MR. PETRU: Objection. Relevance, your Honor.

5 THE COURT: Overruled.

6 THE WITNESS: I believe the one I had done for --
7 when I originally submitted it to the UW Voyage magazine,
8 I included some photos I had taken.

9 BY MR. BONVENTRE:

10 Q. Thank you. I didn't mean to jump around like that.
11 I apologize. So you did write -- one of the things you
12 wrote for the Night Beyond was "Ten Movie Sequels That
13 Ruined the Original," correct?

14 A. Correct.

15 Q. And this was on July 20th of 2021?

16 A. I have no idea.

17 Q. Can you switch to A36 just for Emily? Emily, do you
18 see Defendant's A36?

19 A. Yeah.

20 Q. And is that the article that you wrote, "Ten Movie
21 Sequels that Ruined the Original"?

22 A. Yeah.

23 Q. And that's July 20th, 2021?

24 A. Yeah.

25 Q. And did you pick those movies?

1 MR. PETRU: Objection. Relevance, your Honor.

2 THE COURT: Overruled.

3 THE WITNESS: Yeah. They kind of just said this
4 is the topic. And to be honest, I have never watched most
5 of these movies.

6 BY MR. BONVENTRE:

7 Q. Did you write this article?

8 A. Yeah.

9 MR. BONVENTRE: Judge, I would offer A36 into
10 evidence.

11 MR. PETRU: Objection, your Honor. Relevance.
12 We discussed this previously. It's 41 pages, your Honor.

13 THE WITNESS: How is it 41 pages? I wrote a very
14 short article.

15 MR. PETRU: I'm just objecting.

16 MR. BONVENTRE: Judge, respectfully, it is her
17 work that she published.

18 THE COURT: I think you can ask about it, but we
19 are not going to have it in evidence.

20 MR. BONVENTRE: All right, sir. That's fine.
21 Thank you, your Honor.

22 BY MR. BONVENTRE:

23 Q. Could you go to the last page of that article,
24 Page 11? So that article was eleven pages long, or ten
25 and a half pages; is that fair to say, Emily?

1 A. Huh?

2 Q. You said 41 pages. It is actually ten and a half
3 pages long, correct?

4 A. I see. This is a culmination -- I see.

5 Q. Is that correct, this article is about ten and a half
6 pages?

7 A. I guess, yes, is it.

8 Q. Would you say that this was sort of lighter fare than
9 what you were doing in some of your articles, would that
10 be fair to say, articles about Yemen or Cairo?

11 A. I didn't choose the topic.

12 Q. I understand that. Would this be lighter fare than
13 the other articles you wrote?

14 A. Yeah, it is about movies.

15 Q. And then one of the other articles you wrote for the
16 Night Beyond -- the next page, was "Eight Refreshing Foods
17 to Beat the Heat and Keep You Hydrated"; is that correct?

18 A. Yes.

19 Q. And you picked a bunch of foods that you thought
20 people might like to eat when it is hot and dry?

21 A. I looked online and found foods and vegetables with
22 the highest concentration with water.

23 Q. And you wrote a nine-page article; is that fair to
24 say?

25 A. Including photos, yes.

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1 Q. And this is your article written on July 21st of 2001
2 (sic), correct?

3 A. Yes, correct.

4 Q. You discussed things like a fruit pizza, and avocado
5 salad, and it is tabouli -- is that how you pronounce
6 it -- tabouli salad?

7 A. I don't know.

8 Q. You don't know about the article you wrote?

9 A. I wrote it in July. I looked up some recipes online.

10 Q. Go to the next one. Did you also write an article
11 about how to start your career in modeling?

12 A. I was asked to write an article about how to start a
13 career in modeling.

14 Q. And you wrote that on July 23rd, correct?

15 A. Yes.

16 Q. That also had photographs and things like that,
17 correct?

18 A. Yes, it had some very large photographs.

19 Q. The next one. And you also wrote an article
20 called -- next page, "Online Shopping: An Addiction Or
21 Just Boredom?" Did you write that article, as well?

22 A. I did.

23 Q. And that was four pages, does that sound about right?

24 A. With pictures, yes.

25 Q. And did you write an article called "Five Book

1 Releases We Can't Wait To Get Our Hands On"?

2 A. Yes.

3 Q. And did you list those five books and discuss those
4 books?

5 A. I had not read these books. I looked at reviews
6 online and wrote a synthesis about them.

7 Q. And the books included -- never mind. And then you
8 wrote another article in July of 2021 called "The Refugee
9 Olympic Team," correct?

10 A. Yeah. I believe the Tokyo Olympic games were going
11 on, so I was asked to write about this.

12 Q. And that's a four-page article --

13 A. With photos, yes.

14 Q. So if I can go back to your -- so prior to -- you
15 have your LinkedIn, can you see that, Emily, A41?

16 A. Yes.

17 Q. After the discussion about Geek, prior to that you
18 worked as a contact writer, is that -- I apologize, I will
19 mispronounce this -- Al Fusaic? Is that how you pronounce
20 that?

21 A. It is call Al Fusaic. It is a volunteer
22 organization. You can write just content related to the
23 Middle East, submit just -- whatever you feel like, book
24 reviews, et cetera.

25 Q. You were doing that while you were working at Geek

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1 Labs, correct?

2 A. I believe I started Al Fusaic in July before I
3 started working at Geek Labs. I have not really done much
4 with it.

5 Q. And then one of the articles that you wrote for that
6 group was the Cairo story that we have been talking about,
7 correct?

8 A. I did not write it for Al Fusaic. I wrote it
9 previously and submitted it to them.

10 Q. So you submitted it to Al Fusaic, that's why it is in
11 your LinkedIn that you filled out, correct?

12 A. Yes.

13 Q. Did you also submit something called Omani?

14 A. In order to qualify as like a volunteer with their
15 organization to submit articles, you had to write a piece
16 about one of the ancient tribes or groups in the Middle
17 East. So they assigned me the Omani. And I wrote like a
18 broad overview of their -- the tribal history, I guess.

19 Q. And what is Omani?

20 MR. PETRU: Objection. Relevance, your Honor.

21 THE COURT: Overruled.

22 THE WITNESS: There is a country in the Middle
23 East called Oman. And so it is kind of about the ancient
24 civilization that gave birth to what is the country of
25 Oman today.

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1 BY MR. BONVENTRE:

2 Q. And that was -- you wrote about that?

3 A. Yes.

4 Q. All right. Prior to that -- actually, at the same
5 time, it indicates that you were working at the Jasmine
6 Language Training Center part-time? Do you see that?

7 A. Yes.

8 Q. So you were doing that at the same time with Al -- I
9 apologize, Al Fusaic and Geek Labs, at least partially at
10 the same time, correct?

11 A. I was in training at the Jasmine Language Center
12 throughout July and I think into August. I was there
13 part-time. And meanwhile, I had submitted roughly two
14 articles to Al Fusaic in the same period of time.

15 Q. And this was also while you were a content writer at
16 Geek Labs, correct?

17 A. Yes.

18 Q. And prior -- I think we talked briefly, you worked
19 full time from January 2021 to April of 2021 in Olympia,
20 in the State Senate, correct?

21 A. No. I was working remotely from Kelso, Washington.

22 Q. And you were an aide, correct?

23 A. Yes, I was a session aide.

24 Q. Previous to that, in 2020, that's when you had been
25 doing your internship with the Washington State

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1 Legislature, correct?

2 A. In the winter of 2020, I had been an intern at the
3 Washington State Legislature.

4 Q. And that was, obviously, back in the United States,
5 correct?

6 A. To be clear, when I was a session aide, I was in
7 Kelso, Washington. And in the winter of 2020, when I was
8 an intern, I was also in Olympia. I was in Olympia then.

9 Q. Another part of your LinkedIn page, if that's the
10 right phrase, was you were a data transcriber for a
11 Slavonic journal project, from July of 2017 through March
12 of 2020, correct?

13 A. This was kind of a volunteer. There is a group in
14 Washington that is trying to transcribe the journals of an
15 old sailor who was in kind of the Middle East region. You
16 are given pieces of his journal and you like, roughly --
17 like a few pages of it, and then you are trying to read
18 his handwriting and type what you see. I did that -- kind
19 of -- it was very easy to do, so I did that once in a
20 while for them.

21 Q. And you did it for almost three years?

22 A. Yeah. They would give me some pages and I would
23 write what I saw.

24 Q. And you were -- it says that you were a language
25 assistant at the American Center of Cairo. Do you see

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1 that?

2 A. Can you show me exactly where this is?

3 Q. Sure. Absolutely. I think it is the next page.

4 Just to speed this along, do you remember being at the
5 American Center in Cairo from September of 2019 to
6 February of 2020?

7 A. There is like a volunteer internship where remotely I
8 was asked to write some questions about U.S. holidays,
9 cultural things, a few simple questions to aid them in
10 their conversation circles at the American Center of
11 Cairo. I just did this for a few months from the United
12 States. I was never interacting with any of the people
13 actually at that organization.

14 Q. And your description here is that you created
15 dialogues about American culture for Egyptians? Is that
16 what you have in here?

17 A. Yes, I created questions and answers sometimes, yeah.

18 Q. And you also did an internship from January -- for
19 2019, an internship at Gulf State Analytics, correct?

20 A. Yes.

21 Q. And 2019 through December. So this would have been
22 in the time frame when you were studying in France and
23 also traveling to Cairo, correct?

24 A. Yes. I started it when I was in France. I had very
25 little to do, so I wanted to find a new opportunity. So I

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1 applied to find an internship. I was given basically
2 three topics to try to write about and research during my
3 internship with them.

4 Q. And it said you prepared background information and
5 analysis for several current event pieces. Duties
6 included coordinating on regional topics, revising
7 articles and participating in the writing process to
8 prepare articles for publication in coordination with a
9 senior analyst. That's what you wrote?

10 A. It's a very fancy way of saying I would do background
11 research on a specific topic. I would bring it to an
12 actual -- you know, expert on the topic. They would
13 correct me. We would go and rewrite it, and rewrite it
14 together, until it was co-authored.

15 Q. And one of the articles that you co-authored was an
16 article called "Yemen's Fragile Peace Talks," correct?

17 A. Correct.

18 Q. And what was the subject of that article?

19 MR. PETRU: Objection. Relevance, your Honor.

20 THE COURT: Overruled.

21 THE WITNESS: I don't know if you know about the
22 trouble the country of Yemen has been going through. But
23 I believe it was on the peace talk processes at that time.
24 And I kind of put together some background research for it
25 before Theodore Karasik eventually kind of authored it for

1 us.

2 BY MR. BONVENTRE:

3 Q. It also says that you wrote an article about, quote,
4 "Understanding Egypt's Role In Libya's Civil War,"
5 correct?

6 A. I did not write it. I co-authored it with Georgia
7 Cafiero.

8 Q. I take it the topic of that article is Egypt's role
9 in Libya's civil war?

10 A. Correct.

11 Q. It also indicates, if I am correct, while you were --
12 as a language assistant at the American Center of Cairo,
13 and Gulf State Analytics, you were also at the Ahlan
14 Arabic Centre of Cairo; is that correct, in 2019, as well?

15 A. No. These are conflicting time periods. For
16 instance, I left Ahlan -- when I went to Egypt, this is
17 where I was an intern at. I was at the language
18 institute, which is called the Ahlan Institute of Cairo,
19 kind of an administration assistant. I didn't start with
20 this virtual public service thing through the VSF program
21 as a language assistant for the American Center of Cairo
22 until September of 2019, which at that point I had left my
23 internship in Cairo. But meanwhile, I had been writing
24 these three articles during the one-year period with Gulf
25 State Analytics.

1 Q. So there was overlap?

2 A. With Gulf State Analytics? Correct.

3 Q. And your duties at the Ahlan Arabic Center of Cairo
4 included maintaining and promoting social media, welcoming
5 new students, processing paperwork, documenting student
6 information, so forth and so on, correct?

7 A. Correct.

8 Q. And this was also the time, was it not, that you were
9 acting as a private tutor?

10 A. I needed a place to live, so I had chosen the private
11 tutorship. This was where I was living. So during the
12 day, I was working as the administrative assistant and
13 taking classes, and during the evenings I was the tutor
14 for this family.

15 Q. So it says here "private tutor." Again, I am going
16 to butcher this, so I apologize, Al Shorouk, Egypt?

17 A. Yes. It's a part of Cairo. There is kind of like
18 segments. So, yes, the family lived in Al Shorouk.

19 Q. So you were living with the family and teaching their
20 children --

21 A. I was tutoring them in English, yes.

22 Q. And you were also a private tutor at this other
23 place?

24 A. No.

25 Q. It is the same thing?

1 A. No.

2 Q. Why don't you tell me what it is?

3 A. For sure. I was living with this family, and during
4 the evenings I was tutoring their children in English.
5 During the days, I would take a bus to the Ahlan Arabic
6 Center where I was helping them with students' paperwork,
7 and I was taking classes with them. That was the
8 period -- this is how I spent the summer of 2019.

9 Q. Also, I noticed you worked in 2018 as a human
10 resources intern at the Oregon -- is it Borgen project?

11 A. Yes.

12 Q. B-O-R-G-E-N project?

13 A. I was an intern -- human resources intern with the
14 Borgen project. It's a group in Seattle.

15 Q. And what is the Borgen project?

16 A. Basically, they are trying to -- let me try to
17 remember. They kind of deal with international poverty.
18 And part of it is they write -- is trying to raise
19 awareness about legislation that can help address issues
20 like famine, you know, proper distribution of humanitarian
21 aid, so that it is -- so it actually has meaningful
22 impact.

23 Q. Thank you. Going back to the time -- excuse me, when
24 you were an exchange student in France, were you also a
25 member of an environmental group in France?

1 A. There is, you know, a student club. I picked up
2 trash off of the beach I think two times with them. I
3 think we like made some potluck dinner.

4 Q. Did you indicate -- so you included beach cleanups
5 and sustainability projects?

6 A. We were -- this is embarrassing, but we were dumpster
7 diving for food that would have been going to waste. This
8 was the sustainability project. We were making food out
9 of food that otherwise would have been thrown out.

10 Q. Using it for -- giving it some use, I take it?

11 A. Yeah.

12 Q. Thank you. And what's the Sciences Babble
13 Association?

14 A. It was kind of a student club, but received funding
15 from the school. This is how I was able to go to Istanbul
16 to do my research project.

17 Q. And that was also while you were in France, correct?

18 A. Correct.

19 Q. Emily, I just have a very few other questions, okay?

20 A. Okay.

21 Q. You discussed yesterday some issues I believe you had
22 with your dad. Do you recall that?

23 A. No.

24 Q. You don't recall that?

25 A. I don't know exactly what issues I was saying. Can

1 you be more clear?

2 Q. Do you have any issues -- are you speaking with your
3 dad right now?

4 A. No.

5 Q. Is it -- would it be fair to say, respectfully,
6 Emily, that you told Dr. Scovel you have had problems with
7 your dad, long-standing problems with your dad?

8 A. He is my father. You know, he was -- I would do
9 something wrong, and we would have an argument about it,
10 but it would always be resolved.

11 Q. Did you tell Dr. Scovel that you had long-standing
12 problems with your dad before the Amtrak train accident?

13 A. Without seeing the paperwork, I would say, yes, we
14 have always had arguments, issues, disagreements.

15 Q. At some point, you saw a therapist, Emily Smith? Do
16 you remember that?

17 A. Yeah.

18 Q. I believe you saw Ms. Smith on one occasion, correct?

19 A. Correct.

20 Q. And I believe you said in your deposition that you
21 didn't continue to see her because you didn't get along
22 with her and you didn't like her name?

23 A. I was having a very hard time when I was living in
24 Seattle at that point. And I was hoping to seek out
25 someone that I could kind of vent to and explain my

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1 situation. I found her, I went to one session with her,
2 and it felt very -- I was looking for more guidance, and
3 it was just kind of like speaking to a wall. And I felt a
4 little uncomfortable with the fact that her name was
5 Emily, as well.

6 Q. You saw Dr. Crossen in 2018. Do you remember that?

7 A. I believe I saw him, yes, in August of 2018. Yes.

8 Q. And then you saw him again in 2021, correct?

9 A. I continued with him while I was in France up until
10 December of 2018.

11 Q. And then there was a gap for three years, and you saw
12 him again in 2021, correct?

13 A. Yes.

14 Q. And he testified that you asked -- you asked him to
15 write a report and send it to your attorney; is that
16 correct?

17 MR. PETRU: Objection. She wasn't here.

18 BY MR. BONVENTRE:

19 Q. I want you to assume that Dr. Crossen testified that
20 you asked him to write a report and send it to your
21 attorney; is that correct?

22 A. I'm sorry. I don't understand the question.

23 Q. Did you ask Dr. Crossen to write a report and send it
24 to your attorney in 2021?

25 A. Yes. I asked him to write, you know, his thoughts

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1 about it and send it to my attorney, correct.

2 MR. BONVENTRE: Thank you, ma'am. I really
3 appreciate it. Thank you very much.

4 REDIRECT EXAMINATION

5 BY MR. PETRU:

6 Q. Emily, just to be complete, you stay very busy? You
7 try to stay very busy, correct?

8 A. Correct.

9 Q. Does that help you?

10 A. Yeah.

11 Q. To be thorough, in your LinkedIn page, there are a
12 couple of volunteer things that you did that weren't
13 commented on. In March of 2017 to July 2017, when you
14 were in school before the crash, you were a research
15 intern for the Institute for Research and Education on
16 Human Rights, correct?

17 A. Correct.

18 Q. And do you remember what you did there?

19 A. I was mainly learning. I was kind of writing about
20 hate crimes, I guess, and learning about the tensions in
21 the United States.

22 Q. In January of 2019, you volunteered for the Red Cross
23 of Monaco as a migrant camp volunteer, where you worked to
24 help prepare and distribute supplies for asylum seekers
25 temporarily located at the camp. The duties included

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1 helping create their resumes, teaching basic English,
2 correct?

3 A. Correct.

4 Q. You like to help others when you can?

5 A. I do.

6 MR. PETRU: Those are all the questions I have.

7 MR. BONVENTRE: Nothing, your Honor.

8 THE COURT: Thank you. You may step down.

9 MR. PETRU: Your Honor, we have a stipulation of
10 admitted facts that I would like to read into the record.

11 THE COURT: All right. A stipulation is an
12 agreement between the parties about facts that you will
13 accept as proven and true.

14 MR. PETRU: Ladies and gentlemen, the following
15 facts are admitted by the parties: One, on December 18th,
16 2017, Plaintiff Emily Torjusen was a passenger on Amtrak
17 Cascade Train 501.

18 Two, on that date, Defendant Amtrak Cascades
19 Train 501 was traveling southbound from Seattle,
20 Washington towards Portland, Oregon.

21 Three, Amtrak Cascades Train 501 had a lead
22 locomotive, a power rail, ten passenger cars, a baggage
23 railcar, and a rear locomotive.

24 Four, at approximately 7:33 a.m. on December 18th,
25 2017, Amtrak Cascades Train 501 traveled on the Point

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1 Defiance Bypass section of the Lakewood subdivision, a
2 section of track over which Amtrak had operating rights.

3 Five, there is a descending grade approaching the
4 curve on the Lakewood subdivision that crosses over
5 Interstate 5 at track milepost 19.8.

6 Six, the curve located at milepost 19.8 has a speed
7 limit of 30 miles per hour. Amtrak Cascades Train --
8 excuse me.

9 Seven, Amtrak Cascades Train -- I'm sorry. I
10 butchered that. Let me do that again.

11 Six, the curve located at milepost 19.8 had a speed
12 limit of 30 miles per hour.

13 Seven, Amtrak Cascades Train 501 was traveling
14 approximately 78 miles per hour when it entered the curve.

15 Eight, Amtrak Cascades Train 501 derailed through the
16 curve, and Plaintiff Emily Torjusen was a passenger aboard
17 the train during the derailment.

18 Thank you, your Honor.

19 THE COURT: All right. Any further witnesses,
20 Mr. Petru?

21 MR. PETRU: No, your Honor.

22 THE COURT: Any rebuttal witness?

23 MR. BONVENTRE: No, your Honor.

24 THE COURT: All right. Jurors, we have completed
25 the evidentiary portion of this trial. I will be giving

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1 you final jury instructions, but I am going to ask you to
2 return at 11:00, at which time I will give you those jury
3 instructions. That will be followed by closing argument
4 by counsel for both parties here.

5 It's not quite time yet to speak with one another
6 about this case. That will be coming soon. But please
7 don't talk about this case with one another or anyone
8 else, and we will see you at 11:00. I think it is still a
9 nice day outside.

10 (At this time, the jury exited the courtroom.)

11 THE COURT: All right. Everyone, please be
12 seated. The jury instructions and verdict form that I
13 have developed were sent out by email last evening. I am
14 prepared to hear about any concerns, objections.
15 Instruction No. 14 was a placeholder for stipulated facts.
16 Here, it seems that there is not a written stipulation.
17 So the general instruction on stipulations, much as the
18 way I gave it to the jury, can go into 14 here, the model
19 instruction on stipulations.

20 So I will hear from plaintiff concerning this set of
21 instructions and verdict form.

22 MR. LEVY: Your Honor, are you going to read the
23 stipulated facts that Mr. Petru just read?

24 THE COURT: I haven't been provided it.

25 MR. LEVY: Can we provide those to you?

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1 THE COURT: If you do, that can be incorporated
2 in Instruction 14.

3 MR. LEVY: Okay. We would ask that that be done.

4 THE COURT: If you would email that to -- I
5 believe it was Tiff Sealy that forwarded it to you last
6 night. If you would send that, we can cut and paste that
7 stipulation into No. 14.

8 MR. LEVY: Thank you, your Honor.

9 MR. BONVENTRE: Judge, I don't know that it is
10 necessary. We literally just read them. You are going to
11 charge the jury at 11:00. Do we need to repeat that
12 again?

13 THE COURT: You have an objection, but I see no
14 prejudice for doing so.

15 MR. BONVENTRE: Thank you, your Honor.

16 THE COURT: Other issues?

17 MR. LEVY: No, your Honor.

18 MR. BONVENTRE: Amtrak had one, Judge, on charge
19 No. 16. I think we have had this discussion before, your
20 Honor. Your Honor used the word "disability." We would
21 object to that word. I think it is pain and suffering and
22 loss of enjoyment of life. "Disability," respectfully, I
23 believe has a very particular meaning. And I would object
24 to the use of the word "disability."

25 THE COURT: It is part of the general damages

1 statement there, the model instruction. Mr. Levy.

2 MR. LEVY: We think it is entirely appropriate.
3 There has been evidence of mental disability in this case.
4 Disability applies to physical or mental. We think there
5 has been a lot of evidence supporting that instruction for
6 disability.

7 THE COURT: I agree. So the objection is noted
8 but overruled.

9 Anything else?

10 MR. BONVENTRE: Nothing, your Honor.

11 THE COURT: We will get these in final form. I
12 probably gave them more time than we needed, but I wanted
13 to be sure. The instructions will probably take 20, 25
14 minutes for me to read. How much time for closing
15 argument?

16 MR. PETRU: I could start off by saying I don't
17 know. I expect that my close -- my opening close will be
18 about an hour.

19 MR. BONVENTRE: I would expect the same. Judge,
20 so I am clear, it is plaintiff, defendant, plaintiff?

21 THE COURT: Correct.

22 MR. BONVENTRE: Mine would be an hour, as well.

23 THE COURT: An hour? You are splitting the hour?

24 MR. PETRU: I am not talking about splitting it.
25 I don't know what he is going to say. What I have

1 anticipated and prepared, I think will take about an hour.
2 And then I would anticipate that if he is going to be an
3 hour, I would probably be no more than 15 minutes in
4 rebuttal.

5 THE COURT: You need to keep it close to the same
6 amount of time. I am not putting anyone on a clock.

7 MR. PETRU: Let's say then -- just to be
8 conservative, let's say I will take an hour and a half
9 total, even though I don't think I will. If he needs an
10 hour and a half total, that's fine.

11 THE COURT: Let's make it an hour and 15 minutes.
12 I don't mean to split hairs and so forth. We need to get
13 this to the jury. What I will do is probably -- after I
14 read instructions, I will probably give them an early
15 lunch. It will only be an hour and a half. We will
16 probably be returning around 1:00 instead of 1:30.

17 MR. BONVENTRE: Is it the Court's intention to
18 give them the case this afternoon?

19 THE COURT: Yes.

20 MR. PETRU: Will the Court allow them to
21 deliberate into the evening?

22 THE COURT: No. The day will end at 4:30. Dara
23 will inquire around 4:15 of them, and ask them if they are
24 at all close, do they think -- in which case I will extend
25 beyond 4:30 some, but not very long.

1 MR. PETRU: Thank you, your Honor.

2 MR. BONVENTRE: Thank you, sir.

3 THE COURT: We will get the final instructions to
4 you so that you can be sure they are in proper form here.

5 MR. BONVENTRE: Thank you, your Honor.

6 (Recessed.)

7 (The following occurred in the presence of the jury.)

8 THE COURT: Please be seated, everyone. I'm
9 going to go over these final jury instructions with you.
10 You have been provided a copy of that, so you can follow
11 along with me. We will be breaking probably close to
12 11:30. Then we will take still an hour-and-a-half lunch
13 break, but return back probably around 1:00 for you to
14 here closing arguments.

15 (Court's instructions to the jury were reported and
16 not transcribed.)

17 (At this time, the jury exited the courtroom.)

18 THE COURT: All right. We will see everyone at
19 1:00.

20 (Lunch recess.)

21

22

23

24

25

AFTERNOON SESSION

APRIL 1, 2022

THE COURT: Before we bring the jury in, Dara already got a question in, not in written form, in which a person wanted to know what noneconomic damages are. I think the best way to handle that is just for the attorneys to in your argument clarify what noneconomic damages are.

MR. PETRU: Are we entitled to know which juror asked the question?

THE COURT: She can tell you. No, I don't think so. I will think about that.

MR. PETRU: Wouldn't we normally see the question?

THE COURT: Normally, we get a question that comes from the juror foreperson, although any juror can ask a question.

THE CLERK: He said "we."

THE COURT: That means they are discussing it; is that what you're saying?

MR. PETRU: That's a good point.

THE COURT: How many times have I admonished them?

(The following occurred in the presence of the jury.)

THE COURT: Everyone, please be seated.

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1 Jurors, you will recall I indicated to you at the
2 outset, because the plaintiff has the burden of proof,
3 plaintiff has the first opportunity to present evidence
4 and, here, to present closing argument. When he is
5 completed, then counsel for Amtrak will address you.
6 Mr. Petru has the opportunity to make the final argument
7 after that.

8 MR. PETRU: Good afternoon.

9 Whenever a passenger boards a train, they put their
10 trust in the train company that they will be able to go on
11 their journey safely to their ultimate destination. A
12 train company has an obligation to take every precaution
13 to ensure that the journey and the passenger is safe.

14 On December 18th, 2017, Emily Torjusen placed her
15 trust and her life in Amtrak's care. Amtrak failed. And
16 as a result, their train flew off the tracks at 78 miles
17 an hour, careening through the air and crashing to the
18 ground.

19 What was left in the aftermath were destroyed tracks,
20 twisted rail, wrecked cars, wrecked engines.

21 Amtrak has fixed the track, Amtrak has restored the
22 bridge, Amtrak has replaced the cars, Amtrak has replaced
23 their engines.

24 But there was wreckage that Amtrak did not fix, the
25 catastrophic and permanent damage they did to an innocent

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1 20-year-old woman, whose daily actions, whose outlook on
2 life, and whose ability to enjoy both the small and the
3 large things in life in a carefree manner was completely
4 shattered.

5 As Amtrak's train flew off the track at 78 miles an
6 hour, so did Emily Torjusen.

7 Amtrak's response, as you heard in their opening
8 statement, is to be fair and reasonable, to use your
9 common sense. You will hear those later. Ladies and
10 gentlemen, those are buzzwords to convince you to give
11 them a discount, so they don't pay the entirety and the
12 enormity of what they have caused and will cause to this
13 young lady.

14 They don't want to fully compensate her for the
15 overwhelming harms and losses she has suffered, or for the
16 unimaginable harms and losses she is certain to suffer to
17 some degree or another for the next 58 years.

18 Just this morning, just a couple of hours ago, Amtrak
19 had an opportunity to examine Emily Torjusen. They had an
20 opportunity to find out more details about her traumatic
21 brain injury and how it affects her, they had an
22 opportunity to find out about the depth and the scope of
23 her PTSD. They had an opportunity to explore her
24 depression, her anger, her anxiety, and her fears. Amtrak
25 could have asked her about the triggers, how they happen,

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1 how she works to control them, what happens when she feels
2 it clicking and she can't turn off the switch, why she
3 cries spontaneously on buses and planes, why she cries
4 spontaneously for no reason at all, how, when, why, or how
5 she loses her inhibition. They could have asked all those
6 questions and probed the evidence as to what damage she
7 has and the nature of the damage, but they chose not to.

8 Instead, we spent an hour this morning asking her
9 about her grades. We know that her brain is damaged in
10 part, but not in whole. We know that she hasn't lost her
11 intellect. We know that she hasn't lost her ability to
12 write. She has admitted that. The doctors have admitted
13 that. That is not the issue in the case. The issue isn't
14 what remains, the issue is what was lost, how it was lost,
15 and why it was lost.

16 Instead, Amtrak asked her questions about an
17 assignment to write an article on modeling. They spent a
18 lot of time talking about an article on food that she was
19 assigned to write, an article about the movies that she
20 was assigned to write as part of her job. Ladies and
21 gentlemen, she can write. She did make it through school.

22 But as Dr. Scovel told you, as Dr. Spohr told you, as
23 Dr. Crossen told you, despite attempts by Amtrak's
24 attorneys in cross-examination, those functions were not
25 impaired. It's initiating them, it's how she goes about

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1 doing them, it's the attention and distraction she has
2 had, but not the innate ability to do those things.

3 Why do we spend time talking about what she knows --
4 what we know she still can do? And the answer is simple.
5 The answer is because their defense in this case is to
6 distract you from the harm, to distort the evidence, and
7 to deceive you about what your role is and what her
8 damages are.

9 MR. BONVENTRE: Objection, your Honor.

10 THE COURT: Overruled.

11 MR. PETRU: They could have brought in experts to
12 tell you that Emily does not suffer from PTSD. They could
13 have brought in experts to tell you that Emily does not
14 have brain damage. They chose not to.

15 Why not? Because the testimony you heard from all
16 the witnesses is true and correct and unimpeached, from
17 Dr. Crossen, from Dr. Spohr, from Dr. Filler, from
18 Dr. Scovel, and from Emily herself, about the impact and
19 effect these injuries have had on her. In fact, the
20 diagnoses that were shared by the treating physicians with
21 you, as reflected in their opinions and in their charts,
22 are 100 percent consistent with each other.

23 So instead, Amtrak criticized the providers for not
24 sending or requesting each other's reports. We spent a
25 lot of time, did your office send it, did you get it, why

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1 not, what's your protocol? But let's unpack that. Let's
2 really unpack that. If Dr. Scovel didn't send her report
3 to Dr. Spohr right away, or if Dr. Crossen didn't get
4 Dr. Scovel's report, or if Dr. Filler's report didn't get
5 to Dr. Spohr until her deposition, it certainly got to
6 Dr. Scovel before her second examination, and they didn't
7 see each other's report, isn't that further clear,
8 un rebuttable evidence that the diagnoses that these
9 independent treating physicians determined on their own,
10 which happens to jibe 100 percent, is nothing other than
11 entirely correct? And it is.

12 The testimony that you heard from Dr. Crossen,
13 Dr. Scovel were that Emily's PTSD and her TBI have
14 resulted in permanent damage, that more probably than
15 not -- we will discuss burden of proof later on -- it is
16 more probable than not that they will affect her and stay
17 with her the rest of her life. Dr. Scovel indicated I
18 think it was ten to 25 percent of those people who
19 suffered cognitive injury will have it for the rest of
20 their life. Some are fortunate, they are lucky, they
21 recover. Others are unlucky.

22 Amtrak admitted they are responsible for the crash,
23 but they never admitted that Emily continues to suffer
24 from PTSD, TBI, anxiety or depression as a result of their
25 crash.

1 Listen carefully to their summation after I am done
2 and see if now, after all the evidence is in, after all
3 the evidence has been received, that they finally admit
4 the reality that Emily Torjusen today, on April 1st, 2022,
5 continues to suffer from the effects of their crash in
6 terms of reduced mental capacity as defined by Dr. Scovel,
7 PTSD, depression, and anxiety.

8 Rather than bring in evidence -- Amtrak could have
9 and didn't -- they chose to vigorously examine the
10 witnesses. Those were the words used: "I am going to
11 vigorously examine the witnesses." Why? Why did they do
12 that? There is an adage in the law. The adage in the law
13 is pretty straightforward. What you do as jurors, what
14 you are going to do as jurors is take the facts, take the
15 evidence, take the law which his Honor has read to you,
16 which you have in your packet, and your obligation, your
17 duty as jurors, is to take the facts and take the law,
18 evaluate them together to be able to determine what your
19 verdict should be. Fair. That's your job.

20 The adage goes like this: If you don't have the law,
21 pound the facts. If you don't have the facts, pound the
22 law. But if you have neither the facts nor the law, pound
23 the table. What we got for the last three days was a lot
24 of table pounding.

25 What they really did was personally attack me, Scott,

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1 our former colleague, now judge, Carol Bosch, Dr. Filler,
2 to some extent Dr. Crossen. Why did they attack us? What
3 were they arguing? What were they suggesting? That we
4 somehow -- Emily should not be compensated because we were
5 doing our jobs, because we had communications with them,
6 because we told them when trial was coming, that we wanted
7 to know what their opinions were going to be so we can
8 prepare to make opening statements, to provide the
9 evidence, to bring it to you? Is there something wrong
10 with a lawyer communicating with witnesses he or she knows
11 are going to come to trial? I think there is something
12 wrong if the lawyer doesn't do that. But somehow by
13 deceiving and twisting and distorting what really
14 happened, they are suggesting that Emily shouldn't be
15 compensated because she hired lawyers.

16 What do they criticize for us -- us for? In addition
17 to us, they criticized Dr. Scovel, Dr. Filler,
18 Dr. Crossen, Dr. Spohr for not sharing the reports. That
19 doesn't change the diagnosis. That doesn't change the
20 treatment. And most importantly, that doesn't change what
21 happened and is happening to Emily Torjusen.

22 A good example -- a good example, by the way, is
23 Dr. Filler. Yes, we worked with Dr. Filler and asked him
24 to prepare a PowerPoint, a PowerPoint to help explain to
25 you the very technical and very complicated tool that he

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1 helped invent called the DTI, a tool which coincidentally
2 the original patent was owned by the State of Washington.
3 He prepared the PowerPoint so you could understand what it
4 was that he was able to get out of evaluating the DTI to
5 actually look into Emily Torjusen's brain.

6 In cross-examination with Dr. Filler here, not one
7 question, not a single question, not even half a question,
8 not even a question that was objected to, not a single
9 question was asked of Dr. Filler about his opinions and
10 his conclusions based on his work with Emily Torjusen.
11 Not one.

12 Instead, in their constant attempt to distract and
13 distort and deceive, they talked about how much money he
14 makes. He makes a fair amount of money. He is one of the
15 world's leading expert in this technology. If you want to
16 know what is happening in somebody's head after they have
17 had a brain injury, you can go to somebody like
18 Dr. Filler. There aren't very many of them.

19 Amtrak certainly could have done it if Amtrak really
20 wanted to know what was going on inside her head. But
21 instead of hiring him, bringing him in here, they
22 criticize him for making money as part of his work. That
23 doesn't change the quality of his work. That doesn't
24 change his opinions and conclusions. It's an attack on
25 him. I find that to be disingenuous.

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1 Remember in opening statement counsel for the
2 railroad tried to tell you that the DTI exam, the very
3 tool that Dr. Filler used and explained to you, was
4 rejected by some group they called the American Academy of
5 Radiology. And I quote from counsel: "We know that the
6 tests he claims are so wonderful have been rejected by the
7 American Academy of Radiology. Okay? That's what the
8 evidence is going to demonstrate, ladies and gentlemen."

9 That was his promise to you. First of all, the
10 American Academy of Radiology does not exist. Dr. Filler
11 said so. We looked it up. There ain't no so such thing.

12 Second of all, they didn't bring any evidence in to
13 show that there is anybody who is qualified, who
14 criticizes the DTI test -- technology, standards,
15 platform, operation. Again, they want you to be deceived.

16 In opening counsel also talked about CT scans, and
17 explained to you in his opinion that the CTs are the gold
18 standard, and that Emily Torjusen had a normal CT, so she
19 must be fine. He failed to mention the truth, and that is
20 that a CT scan is the gold standard not for detecting
21 brain injury, but for detecting whether somebody has a
22 brain bleed, a hematoma, a hemorrhage, a skull fracture.
23 It is used in an emergency room in triage to see whether
24 or not you have to get a neurosurgeon in then and there to
25 save somebody's life from a head injury resulting in a

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1 hemorrhage or a skull fracture. It is not the gold
2 standard in any way, shape, or form for determining
3 whether somebody has a head injury, a mild traumatic brain
4 injury, or moderate traumatic brain injury as a result of
5 blunt force trauma.

6 Emily didn't have a fracture to the skull. She
7 didn't have a brain bleed. She suffered a TBI.

8 Dr. Filler explained to you that the vast majority --
9 in fact, virtually all people who suffer traumatic brain
10 injuries, concussions, have normal CT scans. CT scans
11 don't show it.

12 The way that this was presented to you, Amtrak
13 actually admitted in opening statement that Emily suffered
14 a concussion. They said the fancy name for that to make
15 it sound worse, TBI. That is actually the common term
16 used in contemporary medical science, TBI. But they
17 suggested to you her symptoms already improved when she
18 was discharged. Then, frankly, they outrageously
19 suggested that Emily was getting better until the lawyers
20 got involved. Again, another attack on Scott and me and
21 Carol. It is preposterous, ladies and gentlemen. This is
22 what was said.

23 Already on discharge those symptoms --

24 MR. BONVENTRE: Objection. I thought what
25 lawyers say is not evidence, Judge.

1 THE COURT: I'm sorry.

2 MR. BONVENTRE: Objection.

3 THE COURT: The basis again?

4 MR. BONVENTRE: He is reading from my opening.

5 Is that the evidence in the case?

6 THE COURT: Overruled.

7 MR. PETRU: In opening, counsel for the railroad
8 said, "I will be held accountable for everything that was
9 in my opening statement." He said, at the end of the case
10 he will bring to you all of the things I promised to
11 produce that we didn't produce, all of the evidence we
12 were going to show we didn't show.

13 What is good for the goose is good for the gander.
14 He promised and told you when Emily Torjusen was
15 discharged from Saint Pete's she was already recovering,
16 and, quote, "Within two or three days of the accident, the
17 hospital, before the lawyers got involved, indicates that
18 the post-concussive symptoms were already improving."
19 That's what he said.

20 Now, let's give a real timeline to this.
21 Emily Torjusen, after she was released from the hospital,
22 went home and had headaches, had nausea, had problems
23 associated with concussive syndrome. She saw Dr. Spohr
24 who saw the same thing, who recommended she not go back to
25 school.

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1 Emily shared with you that she couldn't bear doing
2 that. If she didn't go back to school, then she thought
3 she would never go back to school. Good for her. It
4 might not have been the best thing to do, but good for
5 her.

6 She went back to school, and Dr. Spohr was right, she
7 continued to have problems. She had problems with
8 concentration, she had problems with memory, she had
9 problems with organization. She would start doing
10 something and got interrupted. She couldn't finish her
11 homework. She stayed up at night. She had sleep
12 problems. She fought like hell to get it done. And good
13 on her, she got it done, but she paid a big price for it.

14 By the time the spring break came around, before the
15 lawyers were involved, they had lawyers, she didn't have a
16 lawyer, but before the lawyers were involved, in spring
17 break, her mother, recognizing the problems, went to
18 Dr. Spohr and said, "Could you please refer her to have a
19 neuropsychological examination because I am concerned
20 about her." And she went and had that neuropsychological
21 evaluation before the lawyers were involved.

22 And what did that neuropsychological evaluation
23 reveal? That she had a significant post-concussive
24 syndrome, with memory problems, visuospatial problems,
25 concentration problems, processing, mental processing

1 problems, physical processing problems. It was a serious
2 and very concerning evaluation and report, before the
3 lawyers were involved.

4 His suggestion to you is that Emily Torjusen is here
5 because of us. Emily Torjusen is here for one reason and
6 one reason only: She has been badly damaged by Amtrak and
7 she is entitled under the law to just compensation for
8 what they did to her. Don't blame us. Blame yourselves.

9 The truth of the matter is that Dr. Scovel's
10 evaluation clearly showed the brain injury, consistent
11 with the symptomology. Dr. Filler's evaluation, which
12 they don't like, they would rather that was hidden so this
13 is a purely hidden injury so you don't see the
14 ramifications of it, clearly showed Emily's damage.

15 I hope this works. Some of the evidence that you saw
16 is called demonstrative evidence. That means it was shown
17 to you with a witness to help explain the witness's
18 testimony. This is one of those pieces of demonstrative
19 evidence. That means in the jury deliberation room you
20 won't have this.

21 MR. BONVENTRE: Objection, your Honor. I
22 apologize for interrupting counsel. This is not in
23 evidence.

24 THE COURT: He just said that.

25 MR. BONVENTRE: I understand that. We can refer

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1 to things --

2 THE COURT: It is demonstrative evidence. It was
3 discussed with the jury. It is not going to the jury
4 room.

5 MR. BONVENTRE: Thank you, your Honor.

6 MR. PETRU: Dr. Filler explained to you the
7 different disciplines. He explained to you the history of
8 concussion. He explained to you what happened to
9 Emily Torjusen's brain. I won't show it to you now, but
10 we had another demonstrative video showing the coup
11 contrecoup injury. When the head is hit, the brain goes
12 to the other -- from side to side, and it broke down
13 showing the axons, the actual nerves and cells and how
14 they function. That is demonstrative to help show you how
15 fine and detailed the damage is and, correspondingly, how
16 fine and detailed the tool is to see the damage.

17 He explained to you the difference between -- is this
18 being published? No. I'm sorry, folks. Thank you very
19 much. I appreciate it. Just showing the original slides
20 again.

21 He explained to you the difference in technologies
22 between the head CT, the brain MRI, and the brain DTI.

23 And then he went specifically to the findings for
24 Emily Torjusen. And he found just evaluating the empiric
25 data from her brain imaging that there were tract losses

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1 in the frontal lobe. And he explained to you that based
2 on the mapping -- and brain mapping is one of his
3 specialties -- tract losses in this area caused increased
4 anger and irritability, which Emily has to this day, and
5 problems with multitasking, which Emily has to this day.

6 He went on and showed you where there was a severely
7 narrowed supracallosal cingulum due to injury. And he
8 explained to you injury to the left supracallosal cingulum
9 causes depression, anxiety and PTSD.

10 He took a brain scan, without Dr. Scovel's analysis,
11 looked at it, and told you that the probability is that
12 these areas are damaged as a result of trauma, and that
13 these areas control these very specific functions.

14 It is not a coincidence that Emily Torjusen has the
15 problems that Dr. Filler anticipated she would have based
16 on the brain scanning. She does.

17 This is a larger version of it. I always have a
18 problem getting out of this one. I apologize. I will
19 figure it out in a second.

20 What Dr. Filler shared with you is DTI imaging, this
21 particular process, is not some maverick, untested,
22 unsupported test, this wonderful test that he described to
23 you that is not supported and was criticized. It is
24 actually used by the United States government. And it is
25 the tool that the United States military uses when any of

1 its servicemen or women are found to have suffered or
2 potentially suffered brain injury. It's the tool that is
3 used widely around the world, and specifically by the U.S.
4 Army.

5 With regard to Dr. Scovel, counsel brazenly misquoted
6 Dr. Scovel numerous times --

7 MR. BONVENTRE: Objection, your Honor.

8 THE COURT: Overruled.

9 MR. PETRU: -- in an attempt to misrepresent her
10 findings. This was just yesterday. But it's important to
11 remember what she wrote and how it was read to her and
12 represented to her and, more importantly, how it was
13 misrepresented.

14 Counsel said in one of his questions, "And in 2018,
15 you thought she could fully recover, correct?" When that
16 isn't what she said.

17 What she said was that she was "hopeful that Emily
18 would be able to recover." She did not categorically
19 state that she would recover. Dropping a word, ignoring a
20 word changes meaning. Again, distort, deceive.

21 I am going to go through these. I was hoping to show
22 them. If you will give me half a minute, I will see if I
23 can get it to work.

24 This is from the 2018 report from Dr. Scovel. This
25 was in her conclusion. She wrote, "In consideration of

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1 the findings of empirical testing measures used for this
2 evaluation, it appears Ms. Torjusen struggles with tasks
3 that require elements of visual and auditory attention,
4 memory and processing speed. Although, Ms. Torjusen is
5 endowed with high cognitive reserve and intellectual
6 ability, it is believed that the consequence of the
7 12/18/2017 accident correlates with impingements to more
8 important realms of cognitive functions, making it more
9 effortful for Ms. Torjusen to process information at
10 premorbid levels. As well, another element of testing
11 revealed Ms. Torjusen's high degree of generalized
12 distress in multiple areas pertaining to her mental health
13 as evinced through her personality and emotional
14 assessment as part of this neuropsychological evaluation."

15 She shared this with you in her direct examination
16 and then again in cross-examination when it was suggested
17 that the problems she had should have prevented her from
18 being able to complete school, prevented her from being
19 able to write. And she explained, as in the middle
20 sentence there, "Her high cognitive reserve and
21 intellectual ability is believed" -- I will shorten words
22 here -- "making it more effortful." "Making it more
23 effortful."

24 That is consistent with what Emily testified to, that
25 when she came back to school, things were harder, it took

1 longer, she had to work more hours.

2 What she did not do was give up. What she had to do
3 and still has to do is make up by working harder, working
4 longer, putting more effort into it.

5 Counsel suggested that Dr. Scovel said, "Well, these
6 kinds of injuries could last up to a year." That's not
7 what she wrote. The bottom sentence where it says,
8 "However, sometimes symptoms can persist for a year or
9 more." Counsel dropped off the "or more" in his question
10 when he said, "You wrote that these symptoms could last up
11 to a year." But that's not what she said. She indicated
12 to you as a neuropsychologist in the testing she does it
13 is unethical and improper to take part of the information
14 and ignore the rest.

15 What I think you saw, ladies and gentlemen, was an
16 attempt to take part of the information and ignore the
17 rest.

18 In 2020 -- in the testing in 2020, there was
19 discussion about executive function. Counsel suggested
20 that the executive function problems were gone. This is
21 the organization, the planning. What actually Dr. Scovel
22 wrote in the second sentence under "executive function"
23 was, "On TMTB, results placed her in the extremely
24 impaired range, completing this measure in 94 seconds,
25 which was less than the 10th percentile."

1 Under "attention and concentration," the same test,
2 this was in 2020, this was the paragraph counsel ignored.
3 Totally ignored the -- can you see my arrow here? The
4 sentence that says -- right here, "Subjective endorsements
5 on the Brown ADD scales found that Ms. Torjusen believes
6 she has significant impairments in many spheres of
7 attentional processing."

8 So they took the two parts of the attention deficit
9 analysis where she did better, and ignored the one where
10 she didn't. That's not fair. And if nothing else, this
11 process should be fair.

12 The same with regard -- I will do both of these
13 together to save time. Under "visuospatial constructional
14 processing," counsel ignored the sentence -- the second
15 sentence that says, "Her WAIS-IV design subtest also fell
16 in the low range, one standard deviation between the
17 normal compared to her age-matched cohort."

18 The first sentence on speed of mental processing,
19 "Ms. Torjusen's score on the TMTA denoted extremely
20 impaired abilities in processing speed, less than the 10th
21 percentile."

22 She went on to indicate that in the second test,
23 2020, Ms. Torjusen had some improvement in cognitive
24 function. No question about that. That's great. It
25 wasn't cured. The brain injury didn't go away, but there

1 was some improvement. But concomitantly, she noted that
2 in her testing, Emily's test results with regard to the
3 emotional stress she was under, the torment, didn't get
4 better, but was actually worse. And she explained how and
5 why it was worse, which is why in her second diagnosis in
6 2020, the first diagnosis was major depressive disorder,
7 the second was anxiety disorder, the third was
8 post-traumatic stress disorder, and the fourth was
9 post-concussive disorder.

10 What happened was in 2018 the testing showed more
11 problems early on with the concussion, with the TBI, and
12 then in 2020, it was the emotional component that took
13 priority. Not that the TBI went away, but the emotional
14 component was so significant that it became the first
15 diagnosis. You can't ignore that.

16 By parsing out one sentence and ignoring the rest,
17 you can deceive. We aren't here to deceive you. Our job
18 is to inform you and provide you with the tools that you
19 need.

20 Let's talk about therapy. You will be hearing talk
21 about therapy later on. I asked Dr. Scovel yesterday
22 point blank whether somebody such as Emily Torjusen, 24
23 years old, with TBI, with PTSD, depression and anxiety,
24 whether she is to be criticized in any way, shape, or form
25 for the difficulties that she has had and expressed in

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1 going to psychotherapy. And Dr. Scovel said, "No, not at
2 all. Not at all. In fact, that is the norm, particularly
3 with young people, that's the norm. They generally will
4 go to a few sessions, and then after a while the reminder
5 of what happened, the emotional and psychological impact
6 of going to therapy is greater than the benefits of
7 therapy, and they stop." And that's exactly what has
8 happened with Emily Torjusen.

9 Why would they suggest to you that she is to be
10 criticized or to be blamed -- I imagine that they will --
11 for not going to therapy? They do that because they don't
12 want you to focus on what is really important in this
13 case, and that is what has happened to her. They don't
14 want you to focus on her traumatic brain injury. They
15 don't want you to focus on her PTSD, her depression or her
16 anxiety. They don't want to compensate her for what they
17 have done.

18 These are the things that they do not want you to
19 compensate her for: her loss of control, her nightmares,
20 her isolation, her periodic loss of focus and
21 concentration and organization, her dangerous risk-taking,
22 her loss of friends, her alienation from her family, her
23 fear of saying or doing the wrong thing resulting in grief
24 and sadness, her loss of joy, her anxiety, her depression,
25 her indecision, her fear of alienating coworkers or other

1 people whom she volunteers, her uncontrollable fear when
2 she is riding a bus, a train, or a plane, her spontaneous
3 crying, her fear of not finding and keeping a true and
4 lasting love, her fear of not being able to have her own
5 family, her loneliness for the last four and a half years,
6 and for the future that she sees as her fate.

7 They prefer that the brain injury remain hidden, but
8 we showed it to you. They prefer that the PTSD be ignored
9 by talking about articles on modeling or food or movies.
10 They didn't ask a single question about the horrific
11 event, the day, where they did this to her on
12 December 18th, 2017. Not one single question about that
13 day. They want to distract you from why we are really
14 here.

15 You saw the power of that yesterday. You saw the
16 power of her trauma, her torment yesterday. But it wasn't
17 just yesterday. Weekly she experiences it. Something
18 triggers it, the memory goes back, the emotions come and
19 she relives it.

20 You saw the power of that trauma on an innocent
21 bystander, on Kevin Jeffers, four and a half years later.
22 He wasn't on the train.

23 They tried to suggest to you that Emily is fine
24 because she has gotten good grades and a job and can write
25 well. Well, we knew that. That isn't the problem. The

1 problem is her brain. The problem is her function. The
2 problem is her emotional balance.

3 Because she is so smart, the doctors told you that
4 people who have high intelligence are more keenly aware of
5 the effect of brain injury, of dysfunction, executive
6 function, more keenly aware of the emotional consequences
7 of an injury like this. Because they are more keenly
8 aware of it, it has a greater impact on their emotional
9 being.

10 She is not to be criticized for her intellect, but
11 because of her intellect, her experiences are that much
12 more profound. As Dr. Scovel explained to you yesterday,
13 because of her age when this happened, it was more
14 impactful than it might have been on somebody who was 20
15 or 30, or in my case 40-plus years older. But you take
16 your plaintiff as you find her. You take the victim as
17 you find them.

18 Amtrak did this to a 20-year-old girl whose brain was
19 still forming, whose life was in front of her, and the
20 consequences of that are unique to her. And that's how it
21 has to be evaluated.

22 She also has the fear, the risk of what happens if
23 she hits her head again. What happens if she is in
24 another accident and has another brain injury. The
25 cumulative effect is terrible, is unthinkable. And she

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1 has to be careful in her activities to avoid any situation
2 where she could have another concussion.

3 Intellect, intelligence, the ability to write do not
4 represent a lack of a significant emotional injury or a
5 brain injury. All we have to do is look at history to
6 know that there have been geniuses who have been
7 horrifically tormented.

8 MR. BONVENTRE: Objection.

9 THE COURT: Overruled.

10 MR. PETRU: Whether it is a Van Gogh or a
11 Hemingway, or a Kurt Cobain --

12 MR. BONVENTRE: Objection, your Honor.

13 THE COURT: Overruled.

14 MR. PETRU: People can still function well in a
15 particular and narrow area despite having brain injury,
16 despite having the sequelae of PTSD, depression and
17 anxiety. Do not be fooled that her work ethic and her
18 intellect means that she doesn't have these problems.

19 Your job in this case is to evaluate the evidence, to
20 balance the evidence and apply it to the law.

21 I have three jury instructions I want to talk to you
22 about. One is called burden of proof. This is
23 distinct -- those of you who have been on a criminal jury,
24 we talked about this in jury selection -- this is distinct
25 from a criminal case. In a criminal case, if these are

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1 the scales of justice, the party with the burden of proof
2 has to prove their case beyond a reasonable doubt, where
3 the weight of the evidence is so great that there is not
4 even a doubt against it.

5 In a civil case, the burden of proof is called a
6 preponderance of the evidence, which means the scales of
7 justice just have to be more heavily weighed on behalf of
8 the point or the issue that has to be proven than that
9 opposed to it. So it is not beyond a reasonable doubt.
10 It is just by a preponderance of the evidence.

11 Looking at it another way, in criminal cases if the
12 defense shows a doubt or proves a doubt, that's an out.
13 That's an out for the defendant.

14 In a civil case like this, proving a doubt is not an
15 out. You don't have to be convinced beyond all doubt of
16 Emily's injuries and the consequences of it that she has
17 or will have. All you have to be convinced of is it is
18 more probable than not.

19 I submit to you, ladies and gentlemen, they didn't
20 bring one scintilla of evidence, not even the weight of a
21 piece of paper, to tip the scales against the evidence
22 that we brought. In this case, quite candidly, we have
23 proven Emily's damages beyond a reasonable doubt, but we
24 didn't have to.

25 The task that you will have is to evaluate Emily's

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1 damages not just for the last four and a half years but
2 for the next 58 years. Emily is 24 years old. And under
3 the jury instruction you have, she has another 58 years to
4 live. Virtually six decades.

5 So the question is what is a truly fair and
6 reasonable amount which will compensate Emily for all
7 these damages? We have to look not just at the last four
8 and a half years, but at the next 58 years. Fifty-eight
9 years, with all due respect looking around this courtroom,
10 I think Emily will be the only one who will be here in 58
11 years.

12 At the age of 20, the world was her oyster. She was
13 bright, a sophomore year in college, she had specific
14 goals then. She was going to serve her country in the
15 State Department. She was going to study Arabic. She had
16 a goal. She had dreams. Eventually, she wanted to get a
17 master's degree. At some point, she wanted to have a
18 family. But from what you've seen, what I've seen, she
19 would have balanced family and work. She would have done
20 it all, but it has been lost.

21 So let's take a look at 58 years, just to make sure
22 we understand the perspective and the enormity of your
23 task. Fifty-eight years from now, stay with me here, is
24 the year 2080. 2080. Fifty-eight years ago was 1964.
25 The Civil Rights Act hadn't been passed yet. The

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1 Beatles -- some people might have heard of the Beatles,
2 but not many. There wasn't Spotify, no CDs, no cassette
3 tapes. There weren't even eight-track tapes back then.
4 There were 45s, for those of you who remember 45s. They
5 certainly didn't have cellphones, computers, the social
6 media stuff. We couldn't have done this technology in the
7 courtroom. There was no Vietnam, no Watergate. It's a
8 long, long time ago.

9 One of your tasks is to make sure your verdict
10 survives a long, long time into the future.

11 In evaluating her injuries and her damages, we have
12 to bear in mind that these are injuries that are with her
13 24/7, sometimes just below the surface, sometimes
14 percolating above the surface, sometimes blowing through
15 the surface, but they are there. They are on a boil.
16 There are no substitutes. There is no time off. There is
17 no vacation. There are no rest days. There are no
18 holidays. 24/7.

19 Which brings us to the next question at hand: What
20 is the appropriate compensation for the extensive harms
21 and losses that Emily Torjusen has and will suffer? You
22 have an instruction on that. It is your Instruction 16.
23 I am going to highlight the middle, but remind you that
24 you have to be convinced that the evidence supports this,
25 more probable than not. It's our burden.

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1 But what you are to do is evaluate the disability and
2 the loss of enjoyment of life experienced by Emily in the
3 past and with a reasonable probability will be experienced
4 in the future.

5 I asked each and every witness who testified, the
6 doctors, whether their opinions are based on a reasonable
7 degree of medical, scientific, psychological probability,
8 and they are.

9 You are to evaluate the mental, physical, and
10 emotional pain and suffering experienced by Emily Torjusen
11 in the past, and with reasonable probability will be
12 experienced in the future.

13 Let's break it down. Easy part. She had a broken
14 clavicle. It has healed. It gives her occasional
15 soreness. It was quite problematic at first after the
16 crash and for the next few months, particularly the first
17 quarter when she went back to UW. She needs to be
18 appropriately compensated for that. Whatever you think is
19 fair, we will accept.

20 The two major areas of injury however, the PTSD, the
21 TBI, need to be broken down both in the past and the
22 future. So there are really four things: brain injury in
23 the past, brain injury in the future, PTSD, anxiety;
24 depression in the past, PTSD, anxiety and depression in
25 the future.

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1 Let's look at the TBI first. Emily was knocked out
2 by a blow to her head when her train car left the track at
3 78 miles an hour. The blow resulted in damage to her
4 brain. The damage is captured on the DTI and has been
5 revealed in Dr. Scovel's testing, both in 2018 and again
6 in 2020.

7 In 2020, Dr. Scovel opined that there are residual
8 elements of slower mental processing, mild problems with
9 visuospatial relationships that may exist and remain. She
10 also shared with you the one area of attention and
11 concentration where Emily suffers, as well as -- I think I
12 mentioned the processing already.

13 Dr. Scovel shared with you that there has been
14 improvement in some areas two and a half years after the
15 incident, but she still has problems associated with how
16 she does things, essentially. That's the executive
17 function problems, the attention and concentration
18 problems, getting started, getting organized. Once she is
19 able to get over those hurdles, once she pushes herself
20 past it, she can write. She can do those intellectual
21 things she is so good at, but it is that much harder for
22 her to get to it.

23 You -- these are what we call noneconomic damages.
24 This whole case is noneconomic damages. There is not an
25 economist who can come in and testify as to the reasonable

1 value of PTSD, anxiety or depression. There is not a
2 formula or matrix to look up. These are noneconomic
3 because there is not a quantifiable number that is
4 assigned to it. The verdict which you reach has to be
5 reached by your own evaluation of the evidence,
6 understanding the nature and the severity of the harms,
7 the duration of the harms and, most importantly, how it
8 affects Emily Torjusen. Those are the things that you
9 have to look at.

10 You may disagree, but we believe for the last four
11 and a half years, for the brain injury that Emily
12 suffered, an amount of \$2 million would be fair to balance
13 out that harm.

14 That specifically addresses issues of focus. She has
15 had to take Concerta just to get through school, her
16 attention and concentration problems, the anger and the
17 outbursts associated with her brain injury.

18 Insofar as the loss of friends and relationships is
19 controlled by the brain injury, that would be included as
20 well, but that also is a ramification of the PTSD, the
21 depression and the anxiety. There is a little crossover.

22 As for the amount of money that would fully and
23 reasonably compensate Emily for the next six decades, the
24 next 58 years for the brain injury, we believe that
25 \$5 million would be a fair and reasonable amount to

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1 compensate her for the next 50 years of going through life
2 with a brain injury, which is still there and, based on
3 the testimony, will be there with her forever.

4 Which brings us to the PTSD, the emotional side of
5 this. The appropriate amount we believe that would fully
6 and fairly compensate Emily for the incredible emotional
7 pain and suffering that she has suffered and will suffer,
8 we believe that \$4 million is appropriate for the last
9 four and a half years, and \$10 million is appropriate for
10 the next 58 years.

11 Let me break that down. I know it is a lot of money,
12 but there is a reason for it, because there is a lot of
13 harm. First of all, the moment of the crash itself,
14 December 17th, 2018, Emily was sitting by a window in a
15 train, one of her favorite things to do in her entire
16 life. Her friend Hanna shook her, shook her shoulder.
17 Emily looked up. She saw a train violently shaking. She
18 saw the rubber between the cars moving incorrectly,
19 wrongly. She saw a shiny metal object coming at her. And
20 then she woke up with her face in the dirt. She was
21 thinking that she lost her legs, thinking that she would
22 die, thinking that Hanna's dead body was lying on top of
23 her legs pinning her. She found herself crying to God,
24 screaming, screaming the Lord's prayer over and over, not
25 knowing if she would see her family again, not knowing if

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1 she would walk again, not knowing if she would live.

2 That trauma, that trauma for a 20-year-old girl in
3 and of itself needs to be fully, completely and adequately
4 accounted for in your verdict. We think that that trauma
5 in and of itself has a balance, has a value of \$2 million
6 for her.

7 However, that experience repeats itself constantly.
8 How do you account -- as a jury, how do you account for
9 the fact that that trauma keeps repeating? Do you count
10 the number of days? Do you count the number of weeks? Do
11 you calculate the number of times that she finds herself
12 on a bus crying? Does she find -- do you calculate how
13 much time she spent on an airplane knowing that that plane
14 can crash, listening to music so she doesn't think about
15 it if she can help herself, knowing that she is unsafe?
16 Each time she is on a bus that hits a pothole, it takes
17 her back. Each time she goes through a tunnel, it takes
18 her back. Each time she sees a news report about an
19 Amtrak crash or a plane crash or another transportation
20 crash, it takes her back, each time she is retraumatized
21 and has been for the last four and a half years.

22 In addition to that, what is the value of friendship?
23 Friends are cherished. Friends give us enormous value.
24 Taking a friend away is a loss of that value. You
25 calculate the value for each one of her friends, her

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1 childhood friends who she has cut off, or they have cut
2 her off because of her behavior. And if so, how much do
3 you value each lost friendship.

4 Sadly, she has alienated and has been alienated from
5 her father and her sister. That's a loss. How do you
6 compensate somebody for a loss like that? I'm not sure
7 how you do. But I know one thing, that your oath as
8 jurors requires you to determine an appropriate
9 compensation for each one of those losses. Not to do it,
10 sadly, is not to do justice. So you have to figure out a
11 way to calculate that.

12 Do you look at her lost dream of serving the country
13 in the State Department? Sure you do. How do you
14 evaluate it? But you must. What is the cost of knowing
15 that your plan of eventually starting a family is a lost
16 dream? Not a plan, but a lost dream. The fear of not
17 being able to make close friends now, not get too close to
18 people because you know that people can't work out or
19 won't work out or there will be a problem. Her fear and
20 concern about keeping a loving relationship. She is in a
21 relationship now, but you saw her, there is a lot of
22 trepidation and fear about that, going through life
23 knowing that you may and probably will, based on your own
24 understanding of yourself, lose those relationships is a
25 factor that you have to consider and account for in your

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1 verdict.

2 Those are only some of the losses that Emily has
3 suffered and continues to suffer.

4 What's the cost of knowing that those around you are
5 constantly walking on eggshells? What's the emotional
6 expense of avoiding situations just because you do not
7 trust your own instincts and your own reactions, so you
8 control and try to control or govern yourself or take
9 yourself out of situations because you know that you can't
10 control your own reactions?

11 All of these things comprise and make up the mental,
12 the physical, the emotional pain and suffering that Emily
13 has experienced in the past, and with reasonable
14 probability will experience in the future.

15 For the past, the last four and a half years, in
16 addition to the \$2 million for what they did to her on
17 that day, what she experienced on that day, we believe
18 another \$2 million would be fair compensation for the last
19 four and a half years.

20 The next 58 years, all of these factors continue to
21 invade and impact and affect Emily Torjusen. The only
22 evidence you have heard -- the only evidence that you have
23 heard concludes that those factors will continue to impact
24 Emily for the next 58 years, to the year 2080.

25 Justice requires that you compensate her and you know

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1 that when you leave the jury room, she will be compensated
2 not just in 2022, but she will be appropriately
3 compensated in 2030, in 2035, 2040, in 2060, 2070, and
4 2080. It's a large number because it is a huge amount of
5 time. And it is a huge amount of permanent damage.

6 Merely because these types of harms are difficult to
7 calculate does not mean that they must not be calculated.
8 In fact, because they are difficult to calculate, we have
9 you.

10 I want you to listen very carefully to the
11 defendant's arguments when they get up here. They will
12 say "this is too much." They will say "be fair and
13 reasonable." They will say "use your common sense." They
14 will say that "we threw up a large number because we only
15 want a fraction of it." None of that is true. We looked
16 at all of these factors for Emily and tried to figure out
17 what it means for her for the next 58 years, and the last
18 four and a half years.

19 Listen to them and see whether or not they break down
20 each one of these categories and give you a correct and
21 accurate assessment of the impact that it had on Emily,
22 and a correspondingly correct and reasonable number for
23 each of those impacts on her. See if they value in
24 dollars and cents the loss of a friend, the loss of a
25 dream, the loss of the ability to control, the value of a

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1 nightmare, the value of a flashback, how that has impacted
2 her, her chosen isolation from her friends and family in
3 Cairo because it is too much to bear here.

4 Let's look at this from the other side. This was a
5 horrific train wreck. Amtrak, as I said at the beginning,
6 had an enormous amount of damage to its tracks, its
7 bridge, its railcars, its baggage car and its engines. In
8 addition, the track was shut down. It lost considerable
9 revenue.

10 If this wreck was not Amtrak's fault, Amtrak did
11 nothing wrong, but rather was the responsibility of some
12 third party, somebody drove into the bridge and broke the
13 bridge and the train careened off and all these people
14 were hurt, including Emily, and they lost all their
15 equipment, Amtrak would have every right to come into this
16 courtroom, but rather than sit at this desk, but sit at
17 this desk on behalf of Amtrak and ask a jury like you to
18 make Amtrak whole, to make sure that Amtrak got
19 compensated for every penny of their twisted rail, broken
20 track, damaged cars, broken bridge, lost engines, lost
21 revenue. And if whoever was sitting at that table didn't
22 want to pay it, they have every right to come to a jury to
23 do it and take it to court. I will be the first person to
24 stand up and say that is their right. Good for them.
25 That's their right. That's our system of justice. Every

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1 penny that is lost requires a penny of compensation.

2 The problem -- the problem here is that it is not
3 easy to calculate penny for penny. It is not easy to
4 calculate damage to the psyche, damage to friendships,
5 damage to your soul. It is not easy to do.

6 But unlike the Bible, where you take an eye for an
7 eye, Amtrak doesn't have a psyche or a soul that could be
8 equally damaged to Emily.

9 MR. BONVENTRE: Objection.

10 MR. PETRU: Nobody does. Amtrak is a person in
11 this. I am not saying that because they are a
12 corporation. If it was a person who did this to Emily, we
13 wouldn't go and destroy them emotionally and
14 psychologically. That's not what American justice does.
15 American justice says: Look at the harms. The greater
16 the harm, the greater amount of compensation that is
17 necessary to balance that out.

18 Just because Emily's damage is to her psyche, to her
19 brain, not to her pocketbook, doesn't mean that you will
20 discount one penny of her damage, and that's going to be a
21 hard ask. But we are going to ask you to do it.

22 You're here to evaluate what this wreck did to
23 Emily Torjusen. Some of you might think, how would you
24 have reacted, how would this have impacted you. That is
25 not the standard. You are not to put yourself into

1 Emily's place. The standard is to understand Emily and
2 understand the effect and the impact that this had on that
3 20-year-old girl.

4 Emily has worked exceptionally hard to stay on the
5 horse or to get back on the horse. She worked her butt
6 off in school. Her grades show it. She worked hard at
7 volunteering, hard at keeping busy, hard at finding a
8 landing spot. But in the wake of all that work, she still
9 has brain damage, she still has the emotional sequelae of
10 PTSD, anxiety and depression.

11 What she has done is struggled, struggled to stay as
12 close to where she could possibly be to maximize her
13 residual abilities as best as she can. Don't criticize
14 her for that. Don't let the deception, the deceit, the
15 distortion substitute what she has been able to accomplish
16 for what she has lost.

17 We are not asking you to compensate her for what she
18 has done. We are asking you to compensate her for what
19 she has lost and for how hard she has had to work to get
20 to what she has done.

21 All of the doctors told you that her grades, her job
22 and her travel do not conflict, do not contradict and do
23 not undermine the diagnoses. Don't let them fool you by
24 suggesting that because she can travel and has traveled,
25 even though it is so hard for her, that the damages aren't

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1 as severe as the doctors have prescribed. If that was the
2 case, they could have brought in a witness to say so, an
3 expert. They didn't.

4 I want to show you one last exhibit, if I can find
5 it. What we are talking about here is a whole person.
6 And we are made up of so many different components:
7 thoughts, emotions, strengths, weaknesses, friends, love.
8 In the middle on this diagram we used with Dr. Crossen, we
9 have our physical condition, we have our cognitive
10 abilities, and we have our emotional state. As
11 Dr. Crossen explained to you, when you have damage in
12 these areas, particularly in multiple areas -- and here
13 although the physical is not significant at this point,
14 the emotional and the cognitive is very significant, that
15 damage in those areas affects everything else in your
16 life: recreational, social, work, self-image and meaning,
17 self-image and meaning.

18 Emily is the victim of a badly distorted
19 psychological and emotional state, cognitive state, which
20 has affected and will continue to affect every aspect of
21 her being.

22 Ladies and gentlemen, I will have an opportunity to
23 respond to counsel's arguments on behalf of Amtrak.
24 Please listen to his argument and see whether they
25 accurately make an attempt, even an attempt, to include

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1 each of the aspects of Emily's harm in detail that I
2 discussed, or rather just say it is too much, be fair and
3 reasonable, give us a discount. Thank you.

4 THE COURT: We are going to take a ten-minute
5 recess here to give everyone a chance to stretch and take
6 a break. Be back in ten minutes. Please do not discuss
7 the case.

8 (At this time, the jury exited the courtroom.)

9 THE COURT: Mr. Petru, you used most of your hour
10 and 15 minutes. I certainly will give you rebuttal. Try
11 to keep it reasonably terse.

12 MR. PETRU: I will, your Honor. I appreciate the
13 latitude.

14 MR. BONVENTRE: Can I be heard briefly, Judge?

15 THE COURT: All right.

16 MR. BONVENTRE: I would move for a mistrial, your
17 Honor. I repeatedly had personal attacks, despite the
18 fact that there were motions filed by both parties: No
19 personal attacks. I made initial objections. Despite
20 that, the Court allowed plaintiff's counsel to continue to
21 make direct attacks: deceitful, deceiving. I am moving
22 for a mistrial. It was inflammatory. It was unfair. It
23 was extraordinarily unprofessional and it violated the
24 Court's own order.

25 THE COURT: You did make one objection. If you

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1 had made more, the Court would have intervened there and
2 not drawn attention to it. I did -- use of the word
3 "deception" is not the best way to approach this. But I
4 am certainly not going to grant your motion for a mistrial
5 here. I'm sure that Mr. Petru has taken offense at some
6 of the ways in which maybe you have violated the order by
7 impugning the law firm and the way in which this case
8 proceeded in employing experts and so forth. That motion
9 is going to be denied. But in the rebuttal I don't think
10 "deception" -- of course, what's the difference between
11 "deception" and "distortion"? I just think you can avoid
12 using the term.

13 MR. PETRU: I will, your Honor.

14 THE COURT: We will be in recess.

15 (Recessed.)

16 THE COURT: Before we bring the jury in,
17 Mr. Petru, I am concerned about the word "deceiving."
18 That is impugning the character of opposing counsel here.
19 I think it would be appropriate -- it is your choice. It
20 would be appropriate for you in your rebuttal to say: By
21 using the word to "deceive," I did not mean to impugn the
22 character of counsel.

23 MR. PETRU: And I didn't, your Honor. I will do
24 that. I will do that.

25 THE COURT: All right.

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1 (The following occurred in the presence of the jury.)

2 THE COURT: All right. Everyone, please be
3 seated. Mr. Bonventre.

4 MR. BONVENTRE: Thank you, your Honor. Good
5 afternoon, ladies and gentlemen. Wow, so much for fair
6 and reasonable.

7 There was a statement that I am going to come up here
8 and use a, quote, buzzword: "fair and reasonable." That
9 is a buzzword. It also happens to be the law: Fair and
10 reasonable. That's the law: fair and reasonable. It is
11 not a buzzword. It's not something that a defense lawyer
12 uses to distract. It is the law.

13 Your obligation, and you have it right in front of
14 you, some of you have it on your laps in the charge, is
15 fair and reasonable. And the numbers that you heard are
16 neither fair, they are not reasonable, they are absurd. A
17 fraction of that is absurd.

18 So now I'm going to spend time -- actually, oh, I
19 don't know, talking about the evidence in the case.
20 There's an idea. Instead of attacking counsel, I am
21 actually going to talk about the evidence in the case. I
22 am actually going to talk about Emily's life, and what
23 Emily is doing. That's what I'm going to talk about: the
24 evidence. I'm going to talk about Emily's life, because
25 that's what we are here to talk about. Emily's life, the

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1 reality of Emily's life.

2 So I'm not going to waste an hour attacking my
3 adversary or my co-counsel there. I am going to talk
4 about the evidence in the case, and I am going to base it
5 upon the evidence in the case dispassionately,
6 objectively. That's what we are here to talk about.

7 So first let me thank all of you very, very much. I
8 also would like to thank the Court for putting up with me,
9 and I would like to thank all of you, and particularly
10 Barry for putting up with me. It is very difficult, I
11 know, for Barry to follow me with his transcriber there.

12 I want to thank the Court, I want to thank Barry, I
13 want to thank my co-counsel and my adversary but, most of
14 all, I want to thank all of you. I want to thank you for
15 the past week, I guess it is -- yeah, four days. I'm
16 sorry. Being with me feels like a week, I'm sure. But it
17 has been the past four days. I want to thank all of you
18 for your time and attention that you were clearly giving
19 this case. I hope in my vigorous cross-examination of
20 certain witnesses, I hope, I hope, certainly that was my
21 goal, was not to offend you or the witness, for that
22 matter. But I hope we found some kernels of truth on
23 cross-examination, even maybe more so on direct
24 examination when a lawyer is asking a witness that has
25 been prepared by them. Cross-examination, respectfully,

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1 in my opinion, is just a really fundamental way to
2 understand what the truth is. And that's your job, to
3 interpret and decide what the truth is and give an award
4 that is fair and reasonable and not absurd.

5 So let's talk about the evidence. I want to talk
6 about reality, the actual reality. I don't want to
7 compare words versus deeds, words versus actions, words
8 versus the actual reality of what occurred after this
9 train accident.

10 So let's talk about reality, if we can for a moment.
11 Before I say that, let me make it clear, as I said in
12 opening, Emily should be compensated. This was a horrific
13 accident. It shouldn't have happened. It should never
14 have happened to anyone. It shouldn't have happened to
15 Emily. And she should be compensated, period, end of
16 statement. Her compensation should be fair and
17 reasonable. Not a penny less, and not a penny more. Fair
18 and reasonable. And that's going to be up to you to
19 decide what is fair and what is reasonable. And, of
20 course, it is based on the evidence in the case.

21 And I want to talk about what actually occurred, what
22 the objective evidence shows about what occurred, what
23 Emily's injuries are, and what her current position in
24 life is, because we heard a lot of things. The
25 description we heard was basically someone who is locked

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1 up in a room without windows and not living any life at
2 all. And frankly, folks, that is just not accurate. I
3 believe this morning -- I hope I was able to present
4 through cross-examination an accurate picture of exactly
5 what Emily's current life is, and what it has been for the
6 past four and a half years. It's not distraction, it's
7 not distortion, it's reality.

8 So let's talk about reality, if you wouldn't mind,
9 for a couple of minutes.

10 The reality is that Emily was injured. And those
11 injuries were the clavicle injury; healed. There was
12 complaints about the shoulder; healed. There was a scar
13 or lacerations, I apologize, that had three stitches;
14 healed. There was something about a lung contusion, which
15 healed before she even left the hospital. There was a
16 concussion, which she absolutely, positively suffered a
17 concussion. Amtrak does not need to hire a doctor for
18 \$20,000 to tell you that Emily suffered a concussion. Of
19 course she did. She suffered a concussion. And for a
20 duration after that she had post-concussive syndrome and,
21 frankly, has made a very remarkable recovery. And we are
22 going to talk about the evidence that demonstrates that.
23 And she also suffered from either anxiety or depression or
24 post-traumatic stress disorder, whatever you want to call
25 it. There is absolutely, of course, an emotional

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1 component to Emily's injury. Of course there is.

2 This was a horrible accident she went through, and of
3 course there was an emotional component to her injury.
4 And she should be compensated for that and for all the
5 other injuries.

6 So let's talk about reality. So after the incident,
7 Emily is taken to the hospital. And she is in the
8 hospital until the 20th. So she is in the hospital for a
9 couple of days. And as the witnesses indicated, the
10 hospital records indicated that her symptoms were
11 improving. Just a fact. That's reality.

12 And in the hospital records, it was indicated that
13 the post-concussive syndrome could last weeks to months.
14 That's just the reality.

15 So she goes home with her family, with her mom, and
16 her dad, and then she sees Dr. Spohr. She sees Dr. Spohr
17 within a couple of days, I believe the 22nd of December.
18 So three or four days after the incident she sees
19 Dr. Spohr.

20 And Dr. Spohr does an examination, and Dr. Spohr --
21 Emily tells Dr. Spohr that she wants to go back to school.
22 So Emily goes back to school with a note from the doctor
23 to give her more time. She goes back to school within two
24 weeks of the incident. Let me repeat: She goes back to
25 the University of Washington, and extraordinary school,

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1 and two weeks after the accident she is back at the
2 University of Washington. She is back taking very
3 complex, serious courses, and she is making the dean's
4 list. So let me just repeat: Within a few weeks of this
5 incident, she is back in college getting extraordinary
6 grades.

7 Let me just make this clear. Emily is an
8 extraordinary individual, clearly. She is obviously very
9 intelligent. She is extremely articulate. She is
10 obviously very driven. She obviously has a plan. And she
11 is a very hardworking, driven individual, and her
12 accomplishments since this incident in the past four years
13 have been nothing short of extraordinary.

14 I'm sure her parents are and should be very, very
15 proud of her. What she has accomplished is extraordinary.
16 What she has accomplished is also the reality of the
17 world. This is Emily. And she has been able to
18 accomplish all of these things. And when you go back and
19 deliberate, ladies and gentlemen, we need to actually deal
20 in reality, what actually is the life that Emily is
21 leading.

22 So within two weeks, she is back at college at the
23 University of Washington. That semester, the first full
24 semester after this incident, Emily earns a GPA of 3.5 --
25 3.53 actually. And she takes classes like Arabic and

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1 other classes which are way above my pay grade. And she
2 does extraordinarily well and makes the dean's list. That
3 is highly relevant as to the level of symptoms she was
4 having when she was back in school just a few weeks after
5 this incident.

6 Now, does that mean she had no symptoms, was having
7 no symptoms of the post-concussive, she wasn't having any
8 emotional -- of course she was. She had just gone through
9 something that was horrible. Of course she was having
10 symptoms. Of course she was. But we have to look at the
11 context. We have to look at everything. And what it
12 tells us is, despite the symptoms, she was able to get a
13 3.53.

14 This is also very interesting, and I don't want this
15 to be misinterpreted by you folks on the jury.
16 Ms. Torjusen clearly loves her daughter, clearly is proud
17 of her daughter. So this is not a criticism of
18 Ms. Torjusen, what I'm about to say.

19 The plaintiff goes back to school in January.
20 Ms. Torjusen does not see her until three months later on
21 spring break in March. She doesn't go visit her. Again,
22 this is not a criticism. But any of us who are parents
23 know we are always worried about our kids. We are worried
24 about them if they sneeze much less if they are involved
25 in an accident and have a concussion. Three months go by,

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1 she does not visit her. Does it that mean she is a bad
2 mother? No. Just the opposite. I am sure she is a
3 wonderful mother.

4 What does it tell you about the perception of how
5 serious the condition is, if your child was in this
6 incident, had a concussion and went away to school, just a
7 couple of hours away and you didn't visit her for three
8 months? Again, that is not to criticize her at all.
9 Please, it is just the opposite. It is an indication of
10 what the family thought and what Ms. Torjusen -- Emily
11 thought, excuse me, was going on. Please understand when
12 I'm saying that. This is reality.

13 So Emily sees Dr. Spohr on the 22nd, goes back to
14 school. She does not see a medical doctor until seven and
15 a half months later. Let me repeat: She sees Dr. Spohr
16 on December 22nd. The next doctor that she sees, other
17 than perhaps -- the next doctor that she sees, that's
18 correct, is Dr. Spohr seven and a half months after the
19 incident.

20 We have to use common sense. Common sense was sort
21 of made fun of on counsel's summation. Please use your
22 common sense. Please use your everyday common sense.

23 There is a visit to the doctor on the 22nd of
24 December, and not another visit to the doctor for seven
25 and a half months. What does common sense tell you about

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1 what that means about the symptoms Emily was having or not
2 having? Common sense tells us that if the symptoms were
3 that bad, Emily would have seen a doctor more than
4 seven -- quicker than seven and a half months later.

5 There is very little treatment in this case, folks.

6 Anyway, seven and a half months later, Emily is back
7 at the doctor. The reason she is there is for a checkup,
8 because now seven months after the accident, seven months
9 after she was in the hospital for a couple of days, Emily
10 is going to do a term abroad in a foreign country in
11 France. Within seven -- within seven months of the
12 accident, she is going to France by herself, whether it is
13 a term abroad or exchange student, I forget.

14 What does that tell you about how -- the severity of
15 the symptoms? If seven and a half months later she goes
16 to the doctor, the -- I asked Dr. Spohr specifically -- by
17 the way, I didn't criticize Dr. Spohr at all. Dr. Spohr
18 is a terrific doctor. Absolutely 100 percent. Dr. Spohr
19 is a terrific doctor who cares about her patient.

20 Seven and a half months later, Dr. Spohr is told that
21 Emily is going to France. Dr. Spohr doesn't object.
22 Dr. Spohr doesn't say: Your symptoms are too severe, you
23 shouldn't go to a foreign country. Dr. Spohr doesn't say:
24 You know, you may not be able to take medication, you
25 shouldn't go.

1 She goes with Dr. Spohr's blessing. Again, common
2 sense and reality. What does that tell you about the
3 severity of the symptoms when she saw Dr. Spohr seven and
4 a half months later and before she went to France?

5 And, by the way, seven and a half months later when
6 she saw Dr. Spohr, Dr. Spohr tells us that the plaintiff
7 is not complaining of lightheadedness. The plaintiff is
8 not complaining of dizziness. The plaintiff is not
9 complaining of balance problems. The plaintiff -- Emily
10 does not have depressive symptoms. And her headaches are,
11 quote, infrequent. Those are the facts. And that is what
12 Dr. Spohr testified to seven and a half months after this
13 incident: no lightheadedness, no dizziness, no balance
14 problems, no depressive symptoms, and infrequent
15 headaches.

16 Now, my recollection of the testimony does not
17 control. Yours controls. Your testimony -- your
18 recollection of the testimony controls. But that was the
19 testimony, folks. That was the status of Emily's
20 post-concussive syndrome.

21 It was at this visit that Emily tells Dr. Spohr that
22 her attorneys would like her, Emily, to go to California
23 to get this DTI test. Dr. Spohr did not order the DTI.
24 Dr. Spohr testified that she would never have ordered the
25 DTI. Dr. Spohr testified that she didn't get the DTI for

1 two and a half years.

2 The point about the DTI is, according to Dr. Spohr,
3 it had literally nothing to do with her treatment of
4 Emily. Nothing. She didn't get it for two and a half
5 years. She was never sent it. It was sent to the
6 lawyers, not to the treating doctor. Ask yourself what
7 does that tell you about the value of the DTI? There is
8 no contesting that Emily had a concussion.

9 And by the way, speaking of the DTI, we are told by
10 Dr. Filler, who apparently is barely making ends meet at
11 15, \$20,000 a clip, and his company is barely making a
12 profit even though it is making millions and millions of
13 dollars, Dr. Filler tells us you can take another DTI to
14 show the progress and the improvement. That is never
15 done.

16 What we do know is when Dr. Scovel sees Emily in 2020
17 she says, and I quote, that the improvement was, quote,
18 her words, not mine, "significant." Not "there was some
19 improvement," "The improvement was significant."

20 In any event, so Emily goes off to France, and she is
21 staying in apparently a very beautiful place in the south
22 of France. And good for her. Isn't that terrific that
23 she is doing a term abroad in France and Europe? Isn't
24 that fantastic? I'm sure she earned it and good for her.
25 That's terrific.

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1 What does she do while she is in the south of France?
2 She does not, as was implied, stay in a room and do
3 nothing and not talk to anybody. What is she actually
4 doing? What is the reality of the situation? The reality
5 of the situation is she is taking long walks, and
6 extraordinarily long walks apparently, to go to Monte
7 Carlo because she loves coffee and she loves Starbucks.
8 She walks along the beach. Good for her. That's
9 terrific. She gets groceries in Italy because they are
10 cheaper than they are in the French Riviera. She walks
11 and sometimes takes trains.

12 She also goes on multiple trips, multiple trips.
13 And, again, this is not a criticism. That's why she is
14 there. She is there to learn. She is there to travel.
15 She is there to see Europe. She is there to see other
16 countries.

17 So what does she do? She does exactly actually that.
18 She does what any other 20-year-old would do when they are
19 in France, she goes traveling. She goes to London a few
20 times. She goes to, I believe, Germany. She goes to
21 Paris once or twice. She goes to Italy apparently for
22 shopping. Apparently, she didn't stop in Italy.
23 Actually, I believe -- and I may be a little confused,
24 because there was a lot of traveling, ladies and
25 gentlemen -- I believe she goes to Bosnia. And I don't

1 know if that was the first time or the second time. Back
2 up. I believe she goes to Bosnia and Croatia. Good for
3 her. That's terrific. And she actually goes to Cairo for
4 three weeks.

5 And a lot this traveling is not alone, but with
6 friends, friends that she had made elsewhere, friends that
7 she had made on this term abroad in France. There was a
8 comment by someone about inhibition of experiences. I ask
9 all of you when you are deliberating to think about this.
10 How many 20-year-old -- 24-year-olds do you know just in
11 the four years since this incident, how many 24-year-olds
12 that you know have had the vastness of the experiences
13 that Emily has had? And I dare suspect you don't know a
14 single 24-year-old, or very few, that have the vastness of
15 experiences that Emily has had since this incident.

16 And she travels by trains. Let's talk about trains.
17 Are there times when Emily is on a train or a bus that her
18 emotions or her anxiety kicks in? Of course it does. Of
19 course it does. She is on a train and it is shaking. You
20 bet she is anxious. Of course she is. But, folks, she is
21 taking a lot of trains.

22 And we heard a lot of about PTSD and avoidance,
23 avoidance of things that would make you remember the
24 incident, the Amtrak train wreck. Emily is taking a lot
25 of trains. She is taking a lot of public transportation,

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1 and she has for the past four years.

2 And we are going to hear, well, that is the only
3 method of transport. Well, Emily, who is an incredibly
4 intelligent, insightful individual, Emily went to France,
5 Emily went to Cairo, Emily chose to go to these various
6 countries, chose to ride the bus, chose to ride trains.

7 In any event, she is doing a lot of things when she
8 is in France. Again, this is all less than one year after
9 the incident. She is in France, and she is traveling all
10 over Europe and Eastern Europe. Terrific. That is
11 terrific. But that is part of the reality. Not the words
12 or the allegations or the complaints. That's the reality,
13 ladies and gentlemen.

14 So then next Emily decides to go to Cairo for four
15 months. And Emily apparently has this passion or love for
16 Egypt or all things Arabic, or the language and the
17 civilization. And she has an interest and a passion.
18 That is wonderful. What is she doing? She is pursuing
19 that interest and that passion.

20 So she goes to Cairo where she has been for three
21 weeks while she was in France. She goes to Cairo, which I
22 think Emily said and would agree is a slightly more
23 chaotic city, I think, than the south of France or than
24 Paris. She goes to Cairo and she spends four months in
25 Cairo with a family -- with a family she doesn't know, and

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1 she goes to Cairo and she learns about Cairo, and she
2 writes about Cairo. And she takes trains in Cairo.

3 So at some point -- at some point Emily is seen by
4 Dr. Crossen, the psychologist, who you saw testify.
5 Dr. Crossen was referred by attorneys. And the point of
6 that is: When Dr. Crossen sees Emily, he already knows
7 there are lawyers and a lawsuit involved. That's why that
8 is important.

9 So Dr. Crossen does his testing, and Dr. Crossen
10 says, under oath and in his report, that he is hopeful
11 that she will have a continuance -- "continued resolution
12 of her symptoms with therapy." That's what he said.
13 That's a fact. That's the reality.

14 He then sees her for either -- five visits I think it
15 is. I think it is done remotely, and Emily is in France
16 at the time. And what else do we learn about that --
17 about Dr. Crossen? In addition, he says he is
18 "optimistic." His words, not mine. Not some lawyer
19 trying to deceive or distract. His words were he was
20 "optimistic she would continue to have a resolution of
21 symptoms."

22 What else do we hear from Dr. Crossen on direct --
23 redirect examination? So Dr. Crossen tells us this very,
24 very powerful, meaningful, significant story that happened
25 with Emily. And Emily, because one of the things that is

1 claimed is that Emily is irritable now, and she curses and
2 she does things she never ever did before this accident.
3 So we are told about this very -- this vivid memory that
4 Emily was telling Dr. Crossen about when there was a
5 problem in school, and the teacher -- and the teacher was
6 mean to her, and Emily cursed at her and Emily ran out
7 and this was proof that there was still a problem.
8 Dr. Crossen's words, not mine.

9 Just one problem. Just one problem with that story.
10 That happened before the accident on the Amtrak train.
11 Now, we weren't told that until I got a chance to
12 cross-examine the doctor again. So on redirect you are
13 told about this powerful, important story you have to
14 remember, how after this accident she snapped at the
15 teacher, she cursed, she left. Except, guess what, folks?
16 It happened before the train accident ever occurred. And
17 you didn't find out about that until cross-examination.

18 The plaintiff sees -- at some point the plaintiff
19 sees Dr. Spohr again. So after Emily is in Cairo and
20 France she final -- she eventually comes back to the
21 United States and she sees Dr. Spohr again. So she has
22 seen Dr. Spohr on December 22nd, 2017. She sees Dr. Spohr
23 seven and a half months later before she goes to France.
24 And now she sees Dr. Spohr on September 23rd of 2019. So
25 we are nearly two years -- almost two years after the

1 incident, after the terrible accident.

2 Emily has seen her treating physician a grand total
3 of three times in two years since the accident. Now, we
4 keep hearing about, well, people with this condition, they
5 don't like to see doctors, or people with this condition
6 don't like to see therapists, people with this condition
7 blah, blah, blah, blah.

8 Let's use our common sense. If you have severe
9 symptoms, if you have symptoms you go to the doctor. You
10 go to the doctor that you have been going to since you
11 were young and a child. In two years after the accident,
12 Emily saw Dr. Spohr, her doctor, her internist, who she
13 trusted -- rightfully trusted a grand total of three
14 times, and only twice after that initial December visit.

15 And what do we find out when she sees Dr. Spohr?
16 Dr. Spohr's examination is completely, totally normal.
17 And in fact, Dr. Spohr tells us that she continues
18 thereafter, when she sees Emily periodically, she
19 continues to do a physical exam; normal every single time.
20 That's what she said: normal, normal, normal. And she
21 does what's called a review of systems. A review of
22 systems she told us was complaints. And she tells us that
23 virtually every time, other than, quote, "infrequent
24 headaches," unquote, that the review of systems is
25 completely normal. That's just the reality. That's the

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1 fact. That's what Dr. Spohr said under oath.

2 What we also know is following that on August 26th,
3 so about nine months later, Dr. Spohr is visited or has a
4 conference call with the lawyers who ask her if she would
5 be willing to testify. And of course, she says yes. Of
6 course, she is going to testify on behalf of her patient,
7 who she has known forever. Of course she is.

8 But here is something that also happens that is very
9 interesting. A month or two before that, June 20th, the
10 plaintiff sees Dr. Scovel again, I believe the
11 neuropsychologist, or both. I believe she is both. And
12 Dr. Scovel tells us -- let me interrupt for a second. I
13 want to apologize to anyone -- I should apologize to
14 Dr. Scovel. I think I did. I want to apologize to anyone
15 who thinks I was rude. My point was not to be rude with
16 any of the witnesses. I think I gave everyone the heads
17 up in openings that I was going to vigorously
18 cross-examine people. I hope I didn't offend anyone by my
19 vigorous cross-examination. And if I did, you can vote in
20 the back that I'm a jerk. Please don't hold it against my
21 client. Please just consider the evidence. I appreciate
22 that.

23 But in any event, Dr. Scovel tells us that there was,
24 quote, not good improvement, "significant improvement."
25 And she also tells us that "her prognosis was better in

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1 2020 than in 2018." Okay. That's what she said.

2 And in 2018, she had said she was hopeful for a full
3 recovery. She hoped that Emily would have a full
4 recovery. And, again, if Emily got appropriate therapy.

5 Which reminds me of another thing. Emily hasn't gone
6 for much therapy. It is not a criticism of Emily. It's
7 just a fact. Emily has not gone for much therapy. She
8 just hasn't. Again, not a criticism. It's reality. It's
9 a fact. She has gone to a couple of people. Didn't like
10 one person because of their name one time. She was the
11 one who discharged herself from Dr. Crossen. Didn't think
12 Dr. Crossen was helping. That's just a fact, folks. It
13 is not a criticism, but it is a reality. Despite all the
14 doctors recommending that she have treatment, and despite
15 all the doctors saying treatment would allow her to
16 recover, she hasn't gone. And maybe she just doesn't like
17 to go. Okay.

18 But here is one interesting thing that came up with
19 the testimony from Mrs. Torjusen. We find out that, in
20 fact, in high school I believe it was, or junior high, I
21 think it was high school, Emily -- Ms. Torjusen was
22 concerned and wanted Emily to see a therapist. And Emily
23 did. And -- I don't know what the issue was, but they
24 thought Emily emotionally needed to see a therapist. And
25 Emily did. And she did it twice. And then Emily stopped

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1 seeing the therapist. And I don't recall exactly what the
2 phrase was Ms. Torjusen used, but it was something to the
3 effect of: It wasn't her thing. She didn't think it was
4 helpful. This is before this accident ever happened.
5 Emily goes to a therapist -- she goes once or twice and
6 discontinues and doesn't like it. Does that sound
7 familiar to the pattern afterwards?

8 I also have to say this, and I say this with all due
9 respect to Mrs. Torjusen. The description -- the
10 description was that Emily's relationship with her dad was
11 perfect, was hunky-dory before this incident, and now they
12 are not talking. And that's unfortunate. But on
13 questioning -- I'm going to just talk about this, because
14 this is what was the testimony. That wonderful
15 relationship, the day of the accident, the day of the
16 accident Ms. Torjusen hears it and she does what any
17 parent would do, she hops in the car and she runs -- and
18 she drives as fast as she could to that emergency room,
19 because she loves her daughter, she is worried about her
20 daughter and wants to make sure her daughter is okay, and
21 she wants to be at her daughter's side. And I said to
22 her, "Did you pick up Mr. Torjusen, Emily's dad?" And her
23 response was, "No, he had to stay with the property and
24 the horses."

25 Now, folks that does not evince evidence of a good

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1 relationship between father and daughter. And more
2 importantly, Emily, to her absolute credit, when she was
3 on the witness stand this morning, said that she had --
4 that she told Dr. -- I am losing it. She told one of her
5 neuropsychologists that she had longstanding problems with
6 her dad long before this train accident.

7 Think of that in terms of, you know, we heard a lot
8 about Mr. Bonventre is distorting, Mr. Bonventre is
9 deceiving. Think about those two things and what that
10 tells you.

11 This is pretty extraordinary. We have a case in
12 which we are told there is a mild brain injury, and then
13 we are simultaneously told that the fact that the person
14 after that gets extraordinary grades is irrelevant. I
15 mean, this is unbelievable. Emily's grades are
16 extraordinary. And they were extraordinary after the
17 train incident. They are extraordinary. I mean, each and
18 every semester or quarter -- it's quarters. I'm sorry. I
19 mean, it is in evidence. I encourage you to take a look
20 at her transcript. It is an extraordinary transcript from
21 an extraordinary young woman, what she did in college. It
22 is extraordinary, her grades. And her grades are 3.8,
23 3.9, 3.7, 3.6. She continuously makes the dean's list,
24 whether she has a dispensation for an extra hour on her
25 tests or when she doesn't have a dispensation.

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1 She is not taking basket weaving. She is taking real
2 courses when she went to college, real, serious, difficult
3 courses and is getting the grades that she was getting,
4 and she graduates with three majors. Three majors. And,
5 again, these are not fluff majors. These are real serious
6 majors. That is part of the reality, part of this story.

7 In November, the plaintiff -- Emily goes,
8 November 2021, after not seeing Dr. Crossen for three
9 years, she happens to send him an email, "Can I see you?"
10 And, again, folks, this is the truth and the reality and
11 the facts.

12 She goes to Dr. Crossen not for treatment. She goes
13 for a quote/unquote evaluation, which he does. And she,
14 Emily, asks Dr. Crossen to send that report to her lawyer.
15 Not to her doctor, to her lawyer.

16 And by the way, in that report Dr. Crossen indicates,
17 like the last time, he is "optimistic for her recovery.
18 She needs some therapy." That's what Dr. Crossen just
19 said a couple of months ago. That's what he just said a
20 couple of days ago on the witness stand.

21 Actually, the last -- the last person -- the last
22 time a physician has seen Emily is -- was in May of 2021.
23 That's seven -- my math is off, but ten months ago.
24 That's the last time she saw a doctor, ten months ago. The
25 last time she actually had therapy I think is even longer

1 than that.

2 Again, I ask you to use your common sense in looking
3 at the totality of things. What does that say about
4 whether symptoms exist or the severity of those symptoms?

5 I also encourage you to look at Emily's LinkedIn
6 page, whatever we call LinkedIn. It is unbelievable, the
7 things she does, the things she has done, the things she
8 is doing, and the things she is doing at the same time.

9 We kept hearing about multitasking. Take a look,
10 this is in evidence, at Emily's LinkedIn. I wish I had a
11 LinkedIn one-tenth like this. This is extraordinary.
12 It's extraordinary in the depth and the breadth of her
13 achievements, of her organizations that she has joined, of
14 her volunteering, of her school achievements, of her
15 articles she has written, all at the same time. I
16 encourage you to look at this, folks. It's in evidence.

17 We are going to hear, well, blah, blah, blah. Ladies
18 and gentlemen, this tells the picture of what Emily is
19 doing with her life right now, and what she has been doing
20 with her life since the incident on the Amtrak train.
21 It's just reality. It's Emily's own words. Please take a
22 look at this.

23 I was somehow criticized for pointing out that Emily
24 writes a lot of articles. Some of these articles are on
25 incredibly complex topics, Egypt's role in something in

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1 the Middle East, what is going on in Yemen. I mean, it is
2 really complicated stuff. And good for her that she is
3 doing this.

4 The reason I raise the -- simultaneous to that she is
5 also doing what we would call -- I don't know if we call
6 it fluff or culture or whatever. She is doing what a
7 23-year-old or 24-year-old or, frankly, a 60-year-old
8 might do, which is writing articles about movies, and
9 writing articles about food, and writing articles about
10 all those kinds of things. So she is writing articles
11 about serious things, and she is writing articles about --
12 I don't know if you want to say less serious things. That
13 is not a criticism. Just the opposite. It shows you who
14 Emily is and who she has been since the accident. It is
15 important. Remember that testimony.

16 By the way, Emily is -- I want to make sure everyone
17 understands. This is a terrific, pleasant -- my
18 conversation with her, my questioning of her was very
19 important. If I can say respectfully -- respectfully, I
20 think it is important on what you saw on direct
21 examination of Emily and what you saw was my questioning
22 of Emily. She was very engaged when I asked her
23 questions. She was telling a story about her articles,
24 telling a story about her organizations, telling a story
25 about her volunteering. She was energized. She was

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1 smiling. That is the fact. That is the reality. That
2 has to be a part -- an important part of what you do when
3 you go in the back and you deliberate.

4 But please, ladies and gentlemen, take a look at
5 this. This is -- this tells quite a story. I will go
6 very quickly over Dr. Filler, if it is even necessary.
7 Dr. Filler has been in a courtroom more than I think
8 virtually every lawyer on the planet. Dr. Filler
9 testified 600 times, 700 times, whatever it was.
10 Dr. Filler is also a lawyer. Dr. Filler advertises to
11 lawyers he is available to testify, available to come up
12 with these Hollywood-produced films. I don't know when he
13 has time to be a doctor. By the way, just think about the
14 number of times that he is in court.

15 Here is what we do know about Dr. Filler. His tests
16 that were ordered by the attorneys had nothing to do with
17 Emily's treatment or diagnosis. That's -- that's not what
18 I said. That's what Dr. Spohr said.

19 Dr. Crossen. Dr. Crossen saw Emily for evaluation
20 twice in 2018, in 2021, that's the second time when Emily
21 asked. Both times he indicated he was "optimistic," his
22 words, not mine, "for resolution or recovery of symptoms
23 if she had therapy."

24 By the way, that is a pretty common theme of all the
25 therapists who testified. Actually, I think Dr. Spohr

1 said that too, that to the extent Emily has ongoing
2 emotional symptoms, she should see a therapist. And she
3 chooses not to. I am not criticizing. I am not being
4 mean. I am simply repeating what the facts are in this
5 case.

6 I talked to you about Dr. Scovel and the treatment
7 that she provided and how she thought in 2020 -- so she
8 last saw the plaintiff in 2020. Dr. Scovel said there was
9 significant improvement, which makes sense. That's what
10 all the doctors said would happen, normally there is
11 improvement. Even she finds improvement. She says the
12 improvement is significant. And she says her prognosis is
13 better in 2020 than in 2018. And I think she also
14 mentions, to the extent Emily has these symptoms, she
15 should see a therapist so help the symptoms get better and
16 resolve. It's just a fact. It's just reality.

17 So in closing, and I am going to sit down now, I ask
18 you when you are deliberating, all I ask you is that you
19 be fair and impartial, that you look at the evidence
20 reasonably and fairly and in its entirety, that you look
21 at the reality of what Emily's life actually is. Because
22 the discussion that you are going to have is what is the
23 quote/unquote "loss of enjoyment of life" that Emily has
24 had and in her life currently. Unlike what we have been
25 told, it has been a very active life, an extraordinary

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1 life for someone her age, of any age. I ask that you
2 think about that.

3 I ask that you simply give an award, which is your
4 duty, that is fair and that is reasonable, no more, no
5 less. And I have absolutely no doubt, ladies and
6 gentlemen, that you will do.

7 I normally don't try to impinge on the function of a
8 jury, which is to give a number or suggest a number. And
9 it is just a suggestion on my part, which, of course, you
10 should feel free to reject. But based on the
11 reasonableness of the evidence, based on what Emily is
12 doing now, my suggestion is that you give her a total
13 award -- you can break it down however you want, a total
14 award of \$750,000. \$750,000. I believe that is fair. I
15 believe that is reasonable. But more importantly, what
16 you decide is what's going to be fair and reasonable.

17 I want to thank all of you very, very much for your
18 time and attention. Thank you very much. And have a good
19 afternoon.

20 THE COURT: Mr. Petru.

21 MR. PETRU: First of all, I kind of forewarned
22 you what to expect. And I think that -- before I talk
23 about the substance of counsel's argument, I want to make
24 sure that each and every one of you understand when I used
25 the word "deceive" earlier, I don't intend and don't

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1 impugn the character of counsel. Not at all. He is
2 actually a fine guy. It is not about him. It is not
3 about me. It's about Emily.

4 I asked during my closing whether you would hear
5 anything specifically about evaluating the nuances and the
6 detail of Emily's brain injury, the nuances and detail of
7 her PTSD, her anxiety and her depression, whether counsel
8 would analyze the effect it has had on her, the loss of
9 friendships. Didn't do it. Just threw out a number.
10 Said \$750,000, that's a lot for 62 and a half years, for
11 the torment of what happened, and what has been going on.
12 That's not related to what happened to her.

13 We can talk a lot about Emily's success and her
14 accomplishments. We did. Emily talked about it. The
15 entirety of the cross-examination was about it, completely
16 avoiding the damage that she has suffered, intentionally
17 avoiding the damage that she has suffered. Your task is
18 to evaluate that damage, to look at the loss of
19 friendships, look at the irritability, the anger
20 outbursts, look at the traumatization that she suffered on
21 December 18th, 2017, and suffers from in her nightmares
22 and her visions on a weekly basis, the fact that she is in
23 Cairo specifically to avoid the pain of friends, family
24 and her prior life, because it is so painful for her. The
25 suggestion that she can't be that traumatized because she

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1 uses trains in Europe, or in Cairo.

2 Well, the testimony was that she actually moved
3 across Cairo to be closer to work so she didn't have to
4 take the train, because every day going to and coming from
5 work she was traumatized.

6 The suggestion you heard just a little bit ago she
7 does whatever a normal 24-year-old kid does, and writes
8 about food or movies or modeling, that's not what a normal
9 24-year-old kid does. This was her job. She was assigned
10 the task of writing these articles for a blog for her
11 company, and she did it. She did it by researching on the
12 internet, culling some information about books that she
13 hadn't read or movies she hadn't seen, or modeling she
14 doesn't care about, or food she doesn't eat to do her job.
15 To suggest or imply to you that she shouldn't be
16 compensated for the damage that she has and will suffer
17 because she was doing her job I think is -- well, I
18 don't -- I think it is wrong. I don't think that's what
19 our jobs are.

20 Again, they go to Dr. Filler and say that Dr. Spohr
21 or Dr. -- I think it was Spohr didn't need the diagnosis
22 from Dr. Filler. We are not saying that she needed the
23 diagnosis from Dr. Filler. We are not saying that
24 Dr. Scovel needed the diagnosis from Dr. Filler. What
25 came from Dr. Filler is confirmation, visual, actual

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1 confirmation of the brain damage.

2 Dr. Spohr didn't say that she doesn't -- wouldn't
3 like to have had DTI. She says that she doesn't order
4 them because there is no facility there that does it.
5 That's what she said. So you have to remember the
6 context.

7 Counsel talked about Emily, Emily's comportment this
8 morning. Well, you heard about how people around Emily
9 will walk on eggshells. And you heard from Emily about
10 how she is careful about interactions with other people,
11 not to set her off.

12 What you saw this morning was a very good
13 cross-examination of somebody who didn't want to talk
14 about the stuff that matters, because he was walking on
15 eggshells. Didn't want to talk about the trauma, didn't
16 want to talk about the PTSD, didn't want to talk about the
17 loss of friends, how that came to pass. Didn't want to
18 talk about the nightmares, didn't want to talk about the
19 effect on the buses or on the trains. He avoided what he
20 knows and we know will set her off. Now, that's what
21 happens when you walk on eggshells. It was very carefully
22 and very well done to make sure that he didn't set her
23 off. That doesn't mean that that is her normal reality.
24 And it is unfair to try to draw those conclusions and put
25 that together.

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1 The high school thing, that's my bad. It was in
2 cross-examination -- redirect examination, they were
3 talking about something, I saw a note from Dr. Crossen
4 about the teacher, and I had forgotten that it was a high
5 school matter. And he corrected me, counsel corrected me.
6 I make mistakes. I didn't mean to do it. But when we
7 asked Dr. Crossen about it, he said that was historically
8 talking about things that were happening to her
9 subsequently. It was one event back in high school
10 specifically. If counsel wanted to know about it in
11 detail, he had an hour and a half, as much time as he
12 wanted this morning to ask Emily about it, and chose not
13 to do it.

14 They suggest that we or somebody said that Emily was
15 locked up in a room without windows. Nobody ever said
16 that. Why would we say that? Within two weeks of the
17 incident, despite the recommendation from her physician
18 and from her mother, she goes back up to UW because she
19 knows if she doesn't do that, she will never go back
20 again. Of course she is going to classes. Of course she
21 is going to the library. Of course she is going to the
22 store. She is not locked up physically, but emotionally
23 she was locked up.

24 The questions about Patty Torjusen, or the comments
25 about Patty Torjusen's testimony suggested that she was

1 not to be believed, implied perhaps she is not telling the
2 truth. You saw her testimony yesterday. Was she telling
3 the truth?

4 The fact that Wayne stayed back doesn't mean that he
5 doesn't or didn't care about Emily. Why didn't counsel
6 ask about the phone calls that Patty had with Wayne, the
7 updates, letting him know what was going on, how long she
8 would be in the hospital, when she is going to come back?

9 Ask Emily about her encounters with Wayne, the
10 relationship they had. Yeah, she is a very bright young
11 woman, and a father who is pretty regimented, it sounds
12 like, pretty strict. Guess what? They would argue. I've
13 got one of those. That's normal. But that's not the kind
14 of falling out that happens without the PTSD, the brain
15 injury, the disinhibition that Emily has suffered. Not a
16 question about the pots -- throwing pots out the window.
17 Not a question about kayaks. Not a question about any of
18 the things that Emily talked about that are the difficult
19 side, the traumatic side, the ramifications of the
20 injuries. Just questions about schoolwork and going to
21 Starbucks and studying, but nothing about what really
22 matters here.

23 I want to remind you, even though horses get beat too
24 often at this time of trial, I want to remind you that
25 Dr. Scovel did her evaluation of Emily in March of 2018.

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1 It had nothing to do with counsel, nothing to do with me,
2 nothing to do with Scott, nothing to do with Joe. It was
3 because there was concern because of Emily's problems, her
4 reported problems.

5 Counsel criticizes Patty Torjusen for not coming up
6 to Seattle between January and March when Emily came home,
7 but never asked about the phone calls, never asked about
8 the communication, never asked Emily about what life was
9 like, what was going on with her during that period of
10 time. Completely avoided the reality of what was going on
11 with her.

12 He never asked her what happened when she didn't have
13 Concerta, how difficult studying was when she wasn't able
14 to take it, and how it benefited her.

15 If grades were an indication of how severely somebody
16 is impacted by PTSD or by traumatic brain injury, they
17 would have an expert in here explaining it to you. If the
18 ability to travel was a direct indication of whether
19 somebody has PTSD or suffers the consequences of PTSD or
20 the symptoms of brain injury, they would have an expert
21 come in here and tell you about it.

22 We asked the treaters specifically about whether or
23 not the PTSD or the brain injury would impact her ability
24 to do well in school, to read, to travel. And they said
25 no, that is not the part of her brain that is affected.

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1 So to go back and talk about the things that aren't
2 affected is essentially an attempt to avoid the actual
3 problems that she has.

4 Doctors. She has brain injury. She has PTSD.
5 Dr. Spohr testified that Emily was one of those people who
6 did not come to the doctor, did not want to come to the
7 doctor, and it was very infrequent. Once she was
8 diagnosed with the PTSD, anxiety, depression, Dr. Spohr
9 made the same diagnosis, not just in 2017, but again in
10 2020, 2021 when she saw her. Same diagnoses. Carried
11 them forward.

12 There is nothing the GP is going to do. Emily knows
13 what the problems are. There is no need to see the
14 doctor. It is not like she has a broken leg that is still
15 giving her difficulty and she needs to get some shots or
16 treatment. She has already seen Scovel. She has seen
17 Crossen, and she knows what is going on.

18 The review of symptoms, Dr. Spohr explained that to
19 you. When she came in the office and saw the orthopedic
20 for the orthopedic follow up, for the neck and the
21 shoulder, it is just a review of symptoms. Those doctors
22 don't even go there, don't even fill it out. The fact
23 that it was silent doesn't mean that Emily wasn't having
24 any difficulties.

25 In short, ladies and gentlemen, when we came in here

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1 on Tuesday after you were selected to be the jury, we gave
2 you an opening statement telling you what the evidence was
3 going to be. We produced each and every element of the
4 evidence that we promised to you. We did it because we
5 knew that those were the tools that you needed to be able
6 to evaluate the past, present and future ramifications of
7 what Amtrak -- what the crash did to Emily Torjusen on
8 December 18th, 2017. You have those tools.

9 As I indicated to you in my opening close, your job
10 and your responsibility is not to just take a lump sum for
11 everything, but to look very carefully at the PTSD for the
12 last four and a half years, to look at the ramifications
13 of what happened to Emily on that day and what she
14 experienced on that day, and to look at the ramifications
15 that she suffered week in and week out, month in and month
16 out since that time, and how it has impacted her, how it
17 has caused her really to live on the other side of the
18 world. You have to do that. That's your job. And then
19 think about the next 58 years.

20 Similarly, the evidence, the clear, unambiguous
21 evidence and unrebutted evidence is that Emily Torjusen
22 has damage to her brain. In 2020, when she saw
23 Dr. Scovel, Dr. Scovel did not say it is resolved and she
24 doesn't have cognitive problems. She said she continues
25 to have processing speed problems, attention problems. It

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1 is ongoing.

2 Your award, as I said earlier, needs to contemplate
3 not just the last four and a half years, but the next 58
4 years. And in ten, 15, 20 years, if we are lucky enough
5 to walk on the street and think about Emily Torjusen, we
6 need to know that your verdict anticipated and covers and
7 is just as good then as it is now. The damages are
8 huge --

9 MR. BONVENTRE: Your Honor, this is no longer
10 rebuttal.

11 THE COURT: Overruled.

12 MR. PETRU: The damages are huge. As I indicated
13 earlier, the greater the damages, the more balance is
14 necessary to come up with a fair and just verdict. It's
15 not \$750,000. That's a disservice. That's not even close
16 to being justice. That is injustice, if there is such a
17 thing.

18 Emily Torjusen trusts that you will take care of
19 justice and make sure that she is fairly, properly,
20 thoroughly compensated, not just for four and a half
21 years, but for the next 58 years. Thank you very much for
22 your service.

23 THE COURT: All right. Jurors, as you know, our
24 court day for you will end at 4:30. So you have some time
25 go to the jury room there and deliberate. I told you, you

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1 couldn't talk about this case with anyone else or with
2 each other. But now, of course, that is your
3 responsibility. So we will await your verdict.

4 (At this time, the jury exited the courtroom.)

5 THE COURT: It seems unlikely we will see a
6 verdict by 4:30. I think I indicated to you before that
7 Dara will go in about 4:15 and ask them if they are at all
8 close. And if they are not, 4:30 will be the end time.
9 If for any reason they were to say we would like a little
10 additional time, then we will do that. But probably not
11 more than 20 minutes or so.

12 I ask that you be within 15 minutes in the event we
13 get a verdict or I get a question that I need to discuss
14 with you. So you will be leaving your contact information
15 with Dara, phone numbers.

16 MR. PETRU: Thank you, your Honor.

17 MR. BONVENTRE: Thank you, your Honor.

18 MR. PETRU: I would like to thank the Court and
19 staff. Having tried more than a handful of cases, it is
20 always a pleasure to go into a courtroom where everybody
21 works together to allow us to put on our cases fairly.
22 And I appreciate the demeanor and the support and the
23 cooperation, particularly Tony Duck.

24 MR. BONVENTRE: As an attorney who practices
25 generally in New York, Philadelphia and New Jersey, it is

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1 quite a pleasure to come here every once in a while.

2 THE COURT: Well, we are glad to have you all.

3 MR. BONVENTRE: Thank you, sir.

4 MR. PETRU: Thank you, your Honor.

5 (Recessed.)

6
7
8 C E R T I F I C A T E

9
10
11 I certify that the foregoing is a correct transcript from
12 the record of proceedings in the above-entitled matter.
13

14
15
16 /s/ *Barry Fanning*

17 BARRY FANNING
18 COURT REPORTER
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